

EDUCATIONAL SERVICES FOR CHILDREN PLACED IN FOSTER CARE

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A Joint Publication
**Wisconsin Department of Health and Family Services
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I. Foster Home Placement

1. How are children placed in foster care?

Almost all children are placed in foster care by order of the juvenile court as a result of the child being found to be delinquent or in need of protection or services. There are also a small number of children who are placed in foster care under a voluntary placement agreement between the child's parents and a public or private social services agency. In the latter case, the placement cannot last longer than six months.

2. Why are children placed in foster care?

Children are placed for a wide variety of reasons, including delinquency, abuse or neglect, uncontrollability, truancy, running away, developmental or physical disability, and mental illness. In every court-ordered placement, the court must make a determination that continuation in the home would be contrary to the welfare of the child.

3. What can be done to limit the number of foster children placed in a district?

At the present time, given the overall shortage of foster parents, children are placed based on the appropriateness of the home and where there are beds available. If foster homes were available on a wider geographic basis, then the odds of one district being overwhelmed would be reduced. For this reason, it is strongly encouraged that county departments coordinate recruitment activities with schools, churches, civic organizations and other local agencies to recruit foster parents on a continuous basis.

4. How is the tribal court involved in foster care placements?

The Indian tribes in Wisconsin are authorized to license foster homes on reservations. Tribal courts have the authority to place children under their jurisdiction in foster homes anywhere in Wisconsin or can contract for foster care placements with private agencies. In some cases, tribes may have agreements (called 161 Agreements because the agreements were created by 1983 Wisconsin Act 161) with county agencies for payment of out-of-home care costs.

5. Can school districts be notified in advance that a child is going to be placed in a foster home in the district?

To the extent possible, the school district that the child will be attending should be notified immediately once it is determined where the child will be placed. In some cases, this is not possible due to the emergency nature of placements. Even in non-emergency situations, there is often only a day or two between the time the placement is determined and the child is placed.

Foster care agencies are encouraged to notify local schools as soon as possible regarding a potential or actual placement. Under § 48.62(3), Stats., the Department of Health and Family Services (DHFS), county departments and private child placing agencies are required to notify the clerk of the school district when a foster home is licensed in the school district. Under § 48.625(2m), Stats., the DHFS is required to notify the clerk of a school district when a group home is licensed in the school district.

Under § 48.64(1r), Stats., an agency placing a child in a foster home, treatment foster home or group home must notify the clerk of the school district that a child has been placed.

6. Should schools be notified when children are moved from foster home to foster home?

Yes, schools should be notified when such moves occur, whether the move is from one district to another, one attendance area to another, or even when the child will attend the same school. Clearly, schools have a need to know when the residence of a child changes, whether the child is in foster care or in the parental home.

7. Are relatives given priority when placing a child in foster care?

Agencies must consider relatives if the child's legal custody is to be transferred, the child is to be placed in out-of-home care or the child is to be adopted. However, it may be that an available relative placement would not be in the child's best interests or that no relative is available, interested or appropriate.

8. How often is the placement of a child in foster care reviewed?

Both federal and state laws require that the placement of all children in foster care be reviewed at least every six months. These formal 6-month reviews should be supplemented by ongoing case decisions and informal reviews by the child's agency social worker and his or her supervisor.

9. Who determines the length of stay in foster care?

Almost all children in foster care (approximately 96%) are placed by a juvenile court. As a result, the ultimate decision on the length of a placement for most foster children is the court's. The child's agency social worker, the placing agency, the foster parents, the panel members or judge who conduct the six-month reviews, and others are all involved in the decision and provide input to the court.

10. Is particular consideration given to keeping a child in foster care for at least one full school year?

No. It is important to keep in mind that the removal of a child from a family is a very intrusive action on the part of a governmental agency. Such a decision is not lightly made and can, in fact, be made only within a statutory framework. Generally, when a child is removed from home, the court will establish conditions that need to be met by either the child or the parents or both. When those conditions have been met or it is determined that they will likely not be met, the court and the placing agency are required to reunite the family or make other permanent placement efforts, e.g., place the child for adoption.

While the argument for keeping a child in one school for a whole academic year is credible and valid, it is the best interest of the child and family, as mandated by law, which takes precedence. Educational considerations may be taken into account, but they are not necessarily determinative.

11. Do private agencies receive all of their referrals from county agencies?

Almost all children placed in foster care by private agencies are placed at the request of county agencies. The county agency will enter into a contract with the private agency for the provision of certain services in exchange for established or negotiated costs.

In some cases, private agencies will place children under voluntary placement agreements with parents or will place children referred to them from other states under the Interstate Compact on the Placement of Children. This involves a relatively small number of children.

12. How does foster care placement lead to adoption?

All children entering foster care must have a permanence goal. In most cases, that goal is reunification with the family. In other cases, the goal may be placement with a relative, long-term foster care, independent living, or the termination of parental rights. If there is a termination of parental rights, the plan may be adoption or "sustaining foster care" (care in which the child is unlikely to be adopted but the plan is for the child to remain with the current foster parent until adulthood).

The premise of all of these goals, and permanency planning in general, is to attempt to place a child in a stable, permanent environment as soon as possible.

13. Is any consideration given to the number of children with disabilities placed in a foster home?

Such consideration is not specifically based on the disability status of the child. Consideration is given to the overall needs of the child and the ability of the foster parents to provide supervision of all children in the foster home.

II. Licensure and Supervision of Foster Homes

14. What is required for licensure as a "treatment" foster home?

A treatment foster home is licensed according to § 48.62(1)(b), Stats., and Chs. HFS 38 and HFS 56, Adm. Code. Treatment foster care requirements included heightened standards of qualifications and training of both social workers and treatment foster parents. In general, treatment foster care is still a family-based approach to out-of-home care but serves a population of children with more complex needs than those children in "regular" foster care.

15. What are the limits, if any, on the number of children placed per foster home or treatment foster home?

Generally, a foster home may have up to four foster children. The only exceptions to this are if all of the children placed in a home are siblings, in which case there is no limit and if allowing up to six children in a foster home will allow a sibling group to be placed together. The licensing rules relating to space, etc. and the capacity of the foster parents to serve all of the children still apply. A treatment foster home may have up to four foster children.

A licensing agency may, for a number of reasons, license the home for less than four children or may license the home only for a specific child.

16. Who regulates and licenses private treatment foster homes?

All foster homes in this state, treatment or otherwise, are licensed pursuant to rules promulgated by the DHFS. The DHFS, a county agency, or a private agency, if licensed by the DHFS, may license foster homes. A private treatment foster home is licensed by a private agency (licensed by the DHFS) according to the requirements of the state licensing rule. To that extent, the DHFS "regulates" the licensure, but the licensing agency supervises the home. [Ref. § 48.75, Stats.]

17. What training is provided to treatment foster parents?

Treatment foster parents must receive 18 hours of training before a child is placed with them. They must receive 24 hours of training in the second year of licensure and 18 hours per year for every year after the second year. The DHFS rules identify certain basic areas of training and licensing agencies may have their own requirements.

18. How are foster homes selected?

Generally, a potential foster parent will contact a licensing agency, usually a county department, and will complete an application. The licensing agency will then study or assess the family according to Ch. HFS 56, Adm. Code. Licensing agencies will utilize their own methodologies (e.g., home visits and interviews) to ascertain whether the requirements of Ch. HFS 56 are met.

Once a foster home is licensed, the placing agency will attempt to match foster children with the foster parents. In some cases, the foster home will be licensed only for children of a certain age, gender, or "type" (e.g., developmentally disabled, emotionally disturbed).

19. Is the background of potential foster parents investigated?

Chs. HFS 12, 13 and 56, Adm. Code, and state statutes require criminal record and child protective services checks and require the foster home license applicant to provide references and an employment history. In addition, health examination documentation for all household members is required. There is also general language that allows the licensing agency to request other information it deems necessary to determine if the applicant is qualified to obtain a license. [Ref. § 48.685, Stats.]

20. Is there a review process for evaluating foster homes and treatment foster homes?

A foster home or treatment foster home license can be issued for a period of up to two years. The criminal background child protective services checks must be conducted no less frequently than every 4 years. Licensing agencies will hold discussions with foster parents prior to re-licensure to identify strengths and weaknesses, training needs, support services, etc. In addition, to a certain extent, the home is evaluated on a constant basis when the agency social worker meets with the foster child.

If a complaint is received, the licensing agency or another social services agency will investigate to determine if the complaint is valid. Remedial actions will result from such findings.

21. Who monitors foster homes and treatment foster homes to assure the proper health and safety of foster children?

This is the responsibility of the licensing agency and, if different, the placing agency. Such monitoring would be done from both the licensing perspective and the child welfare perspective.

If there is a complaint, other agencies would also potentially be involved. Private agencies are licensed by the DHFS and counties are supervised by the DHFS.

III. Provision of Services

22. Who is responsible for the provision of non-educational services and case management for a child in foster care?

The court order must include the identification of the agency that is to be primarily responsible for the provision of services to the child and which agency is to provide case management services. In most instances, this will be the County Department of Social or Human Services. Even if a private agency is involved, the county agency, as the purchaser of services, retains primary responsibility. The main exception to this responsibility is if it is an adoptive placement.

23. Does the school know, in written form, who has legal custody of a child?

The order issued by the court will indicate which individual or agency has legal custody of the child. If the court order is not shared with the school for confidentiality reasons, it would be helpful for the child's agency social worker to notify the school in writing of the status of the child's legal custody and the name of the individual to be contacted for educational purposes. Unless otherwise notified, the school should assume that the child's parent remains the child's legal custodian.

24. Are parents still involved when a child is in out-of-home care? What is the nature of that involvement? Are they involved with schools?

There is no simple answer. In most cases, the child's permanence goal is to return home. As a result, there is generally some involvement between the parents and child. The degree to which there is involvement, however, varies from case to case and even within cases. It may well be that the parents' involvement with the child will increase as time goes on and the return home becomes more imminent.

Schools should understand that the parents of a child in foster care might have most of the legal rights of any other parent, except that they do not have physical custody of the child. The parents' rights may be limited by a court order. The goal of social services agencies is to provide whatever services parents and children may need to establish a fully functional family unit. The legal mandate of child welfare services is, in most cases, to reunite families. During this treatment period, the educational laws, including those pertaining to children with disabilities, must be implemented. This means that the educational laws must be carefully interpreted to assure the child's educational rights and child welfare status are protected.

Schools are advised to communicate with the agency social worker regarding the provisions of the court order when programming for foster children. Practically, this means that the school should keep all these parties informed as to the child's progress, unless ordered to do otherwise by the court, in the same manner as any other child. The student who is a foster child should not, however, be released to the custody of any person not designated by the court or the social services agency as appropriate. Where a parent has been denied periods of physical placement, e.g., visitation, by the court, the school district may not reveal confidential information about the student to that parent without a release of information from the child's custodial parent or guardian. Visitation by parents to the child's classroom may or may not be appropriate; the school's policy and the decision of the social services agency on who has the right to visit the child need to be in agreement. Financial responsibility for school expenses not covered under educational requirements need to be discussed with the social services agency supervising the foster home since they are aware of the limits of parental financial responsibility in a given case.

25. How can schools find out when custody switches from county to parent, but the child remains in foster care?

This would be a very rare occurrence. Generally speaking, if the court has transferred legal custody to the county, the custody would not be transferred back to the parent until the child was returned home. Should it occur, however, the child's agency social worker should inform the school.

26. To whom can the school go when there is a conflict between the foster parent and the parent?

Any conflicts between foster parents and parents should be brought to the attention of the social services agency responsible for the child. The school district is frequently put in the position of arbitrating differences between the foster parents and the parents in educationally related matters. Disputes between parents and foster parents, although they may arise in the education context, are likely to have broader ramifications for families and the children. Therefore, in any situation where there is such a conflict, it would be helpful for the district to confer with the social services agency to determine a joint course of action. Before personally identifiable information is released, it is advisable to obtain the written consent of the legally responsible adult. If the decision involves a school mandate, the social services agency can be enlisted to support the district's decision. When conflicts are of a non-educational nature, the school should involve the social services agency to avoid possible manipulation by outside individuals.

27. Whom does the school contact if it believes the foster child needs more services than he/she is receiving?

School staff who find themselves in this situation should first contact the child's agency social worker or other representative of the placing agency and, if different, the licensing agency. Should those attempts be unsatisfactory, it may be appropriate to contact the agency director.

If satisfaction is not obtained, school staff should contact the appropriate Regional Office staff. (Please refer to Resources section.)

- 28. Is it possible to have different requirements for a foster child leaving an institution versus a home? When a child goes from an institution into a foster home, how does the school develop a program for that child?**

There are not and should not be any differences in how schools program for a child in foster care regardless of whether that child is placed from home or some other out-of-home care placement. Reality for the child is the same: he or she is in foster care and is attending the local school (or other area school, depending upon program availability). In either case, the school that the child is attending should obtain previous educational records and plan accordingly.

- 29. Can schools and teachers be made aware of medications a child in foster care is taking? If so, who is responsible for the notification?**

Each school district is required under § 118.29, Stats. to have a policy on the administration of drugs. The school district must have instructions and consent from the parents, guardian or legal custodian to administer over-the-counter drugs. School administration of a prescription drug requires instructions from a medical doctor and consent from the parents, guardian, or legal custodian.

If a student is required to take medication during the school day, the school is entitled to know and to supervise the administration of that medicine. This assures that students are taking only prescribed medications and that these medications are being taken in the manner in which they were prescribed. This policy should be the same for all students, not just children in foster care. If the student is taking medications that will affect their behavior or school performance, or which might preclude them from certain activities, the school should know that fact even if the medication was given outside the school setting. Only information that is deemed necessary for the school to know to assure the safety of the student and others needs to or should be shared with the school.

The decision to inform the school regarding medications rests with the parents and the social services agency which has primary responsibility for providing services to the child, just as it would otherwise rest with the student's parents. The social services agency must consider the policy of the school regarding students taking medication in the school and the benefit to the student of sharing information with the school, in addition to the student's right to privacy, as a basis for their decision. In situations where the agency's decision not to share information with the school about the student's need to take medications places the student in violation of school policy, the district should handle the situation in the same manner they would if the student was in his/her parental home.

- 30. What programs and services are schools obligated to provide children living in out-of-home care?**

Children living in out-of-home care are entitled to the benefits of the school's program on the same basis as children who reside with parents in the district, including, but not limited to, special education, field trips, athletics and other extracurricular activities, etc.

- 31. Must a school district enroll a child placed in out-of-home care, even if the placement will be short term?**

Yes. A child's right to education is established under Article X, Section 3, of the Wisconsin Constitution. A school district has no authority to deny enrollment to an individual between the ages of 4 and 20 years who has not graduated from high school and who is a resident of the district. For

educational purposes, a child placed in out-of-home care is a resident of the school district where the out-of-home facility is located, regardless of the anticipated length of placement.

32. Must a school district provide educational services immediately when receiving a child placed in out-of-home care or can the district wait for records and time to adequately plan? If service(s) must be provided, can it be at an alternative site?

Generally, a school district must enroll and serve a resident student immediately (see Questions 30 and 31). If the student has an Individual Education Plan (IEP), the school must implement the IEP until either the school adopts the IEP or develops a new IEP (see Questions 94 and 95).

Section 118.16(4)(cm), Wis. Stats. allows a school board to establish policies which provide that a high school age student may be assigned to a period of assessment as a consequence of the student's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies must specify the conditions under which a high school student may participate in the assessment without being in violation of the compulsory school attendance laws and the maximum length of time that a student may be assigned to the assessment period. The school district may not assign the high school student to an assessment period:

1. without the written approval of the student's parent or guardian;
2. for a period longer than the time necessary to complete the assessment and place the student in an appropriate education program or 8 weeks, whichever is shorter;
3. more than once; and
4. if the school district has an alternative education program available for the student that is appropriate for the student's needs.

The goals of the assessment period are to develop an educational plan for the student, implement an appropriate transitional plan and facilitate the student's placement in an education program in which the student will be able to succeed. The school board is to provide students who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the student.

This assessment period cannot be utilized for a student with disabilities unless his/her individualized educational program specifically authorizes the period of assessment, and the student continues to receive a free, appropriate public education during the assessment.

33. Can a public agency transferring a child between foster homes and school districts permit the child to remain at home prior to attending the school, so that the new district has adequate time to prepare?

Wisconsin's compulsory school attendance law requires that any adult having control over a child between the ages of 6 and 18 years shall cause that child to attend school during the full period and hours, religious holidays excepted, that the school is in session, §118.15, Wis. Stats. In addition, the Wisconsin Constitution guarantees a child an education, so a school district must make every effort to start a student in appropriate classes and programming on the first day the child enters that school. For children with disabilities, an alternative site may only be utilized if it is authorized by that child's IEP.

34. May a parent or social services opt to keep a child in the school in which he/she began the school year (especially if the foster home placement might be short-term)?

Under §121.84(1)(a), Wis. Stats., a school district is required to allow a student who is enrolled in its district and is a resident of the district on the third Friday in September or the second Friday in January and was enrolled at least 20 school days in the current school year to complete the school year without payment of tuition, even if the student moves out of the district during the school year and is no longer a resident.

Generally, the school district of residence is not responsible for transportation beyond the school district's boundaries. The Department of Public Instruction has suggested that inter-district cooperation may be appropriate to provide transportation. However, the law does not clearly define transportation rights and responsibilities in this area.

In the case of a child with a disability, the school district where the child began the school year and continues to attend has the responsibility to insure that the child has a Free Appropriate Public Education (FAPE) available. Although state law does not explicitly address this, when special transportation is required by the child's IEP, the district of attendance would also appear to be responsible to insure that it is provided as part of ensuring FAPE. Legislative clarification may be needed to more fully address this area.

35. Who provides transportation for children to attend school programs? Is there a maximum time or distance for a child to be transported?

A school district must provide transportation to and from the public school for any resident child who lives two miles or more from the nearest public school. The public school must provide transportation for any resident child between the child's home and a private school if the child lives two or more miles from the private school and in the private school's attendance area, and the private school is located within the district or not more than five miles beyond the district's boundaries.

There is no established limit for the duration of the bus ride. A generally accepted standard has been an hour, but the needs of the individual child and the geography of the school district should be considered.

36. Are there opportunities to help a child in out-of-home care with post-secondary education?

One opportunity in Wisconsin is the Talent Incentive Program (TIP) grant that aids low income/disadvantaged students with limited financial resources. The purpose of TIP is to provide grant awards to uniquely needy students who meet both the financial need and non-traditional/disadvantaged criteria. An example of the non-traditional/disadvantaged criteria would be that the student's environmental and academic backgrounds are such that they deter the pursuit of educational plans.

Through the Wisconsin Educational Opportunity Programs (WEOP), TIP awards up to \$1,800 are made to eligible, first-time, post-secondary school students who are attending Wisconsin colleges, universities or technical schools. Continuing TIP awards are available for students if they have successfully completed their first year at a post-secondary institution. Application forms are available by contacting the WEOP Office of the Department Of Public Instruction, (608) 267-1058.

Other opportunities exist at both the state and federal level and a student residing in out-of-home care should work with his/her school counselor and institution of higher education.

37. Where can people go for more information from the state or private sector?

Please refer to the Resources section of this document for assistance.

IV. Interagency Cooperation

38. What information can social services agencies share with school districts, foster parents, parents and other service agencies?

At the present time, § 48.78, Stats., is fairly specific about the types of information that can be shared with these agencies or individuals. There are also significant differences in the social services agency's ability to share information with these different groups. Current laws allow the following:

Schools. Under state statutes, information from a child's social service record, except as otherwise provided by law, can be shared on a confidential basis with a school. A public school must keep the information confidential pursuant to § 118.125, Stats., and a private school must keep the information confidential pursuant to the same requirements as articulated in § 118.125, Stats. [Ref. § 48.78(2)(b) and 938.78(2)(b), Stats.]

The Departments of Public Instruction (DPI) and Health and Family Services (DHFS) are working cooperatively in this area to reach an agreement on statutory and policy proposals to provide more consistency in this area. In addition, the Attorney General and the Director of State Courts have established a multi-disciplinary task force to examine confidentiality issues regarding a variety of children's records.

Foster Parents. Social services agencies must provide a significant amount of information to foster parents. Ch. HFS 37, Adm. Code, is an administrative rule that specifically indicates what information must be shared with foster parents, treatment foster parents, and family-operated group homes. In addition, § 48.371, Stats., requires that certain medical information on a child, including the results of any HIV and hepatitis B tests, be provided to an out-of-home care provider.

Parents. In most cases, there is a free flow of information between social services agencies and the child's parents. The only restrictions generally would occur as the result of a court order and would relate to some limitation on the rights of the child's parent. In all cases, the name of the person who reported any alleged abuse or neglect cannot be released.

Other Social Services Agencies. Depending on the agencies involved and the confidentiality laws that apply to each agency's information, there may be a flow of information between social services agencies that have either the child or his/her parents or both as clients.

39. Should the school be notified of all visits between a foster child and his/her parents that are held outside of the school?

The confidentiality laws are currently very restrictive on the sharing of information. At the same time, if the visit results in an attitudinal or behavioral change on the part of the foster child, it would be helpful to the child and the school if the foster parent or agency social worker would share the nature

of that change with the liaison person so that school staff are prepared to provide any needed assistance to the child.

40. Can schools be involved in developing a child's treatment plan or permanency plan?

Prior to entering a dispositional order, the court must be given a court report that includes the child's permanency plan. One of the pieces of information which must be included in the court report is "A plan for the provision of educational services to the child, prepared after consultation with the staff of the school in which the child is enrolled or the last school in which the child was enrolled." [Ref. § 48.33(1)(e) and (4).]

The court will identify the agency that is to prepare the court report and the permanency plan. In most cases, this is the county department.

41. What is the administrative relationship between a county department of social or human services and the state department of health and family services?

Wisconsin employs a county-administered/state-supervised system of human service provision. As such, the county departments are controlled by county boards and operate within the framework of state laws and policies and county ordinances. The State DHFS has supervisory responsibilities and, as such, establishes policies, distributes federal and state funds and, in general, supervises the administration of services by the counties.

Staff of the DHFS, as appropriate, have access to most records when they are functioning in their official capacity.

42. Is there consistency in the manner in which county agencies deal with schools?

There is general consistency, but it is important for local communities to be able to arrange local policies and procedures (within the confines of the law) that allow for services to best meet the needs of children and families. Small inconsistencies may exist based upon long-standing practices, the size of the agencies involved, e.g., large urban vs. small rural, and nuances in interpretations of state laws and policies. Such minor inconsistencies are to be expected when there are 72 county agencies and 426 school districts.

43. How can schools communicate more effectively with social services agencies?

The school and the social service agency both operate under a primary group of specific statutes and rules. It would be very difficult for each person in one agency to learn all of the required procedures of the other system. However, there are recommended actions that both school districts and social service agencies may take to facilitate better communication. First, each agency can appoint one individual as liaison to have frequent, non-case specific contact with the other to communicate concerns and questions from their colleagues about the other agency's actions. Second, on case-specific questions, schools and social service agencies can establish a procedure for clarifying specific concerns. The organization's respective liaisons may be helpful in this regard. In some communities, an interagency task force may be warranted. Third, the administration of each agency can support the development of in-service training experiences for their staff on the role and function of the other system. Each system may be able to help the other by providing speakers. Fourth, individuals in

either system can contact the state department office of the other system to seek assistance with problems or to register concerns.

The use of a single individual to be a liaison with the schools or social service agency has many advantages. This individual is able to become familiar with the day-to-day operation of the agency and to communicate to the district any change in regulations that affect the interagency cooperation. A liaison is also able to clarify misunderstandings and facilitate both educational and social service goals. The use of a liaison is recommended by the Departments of Public Instruction and Health and Family Services in situations where youth are living in out-of-home care, since there are numerous areas of potential misunderstanding and conflict. Pupil services staff, particularly school social workers if available, are uniquely suited to fulfill this function for schools.

44. May the social service worker contact the teacher or school of a child living in out-of-home care on a regular basis in order to keep lines of communication open?

It would be helpful, assuming that the child's parent or guardian has consented to the sharing of information or the court has ordered such contact as part of the county's supervision. School buildings and staff should be open to the visits of a social service worker on behalf of a student living in out-of-home care. When a social service worker visits the school, the district procedures should be closely followed. Such visitations should be scheduled in advance and the building principal and the teacher should be aware that the visit is to occur. In the case of an emergency, the social service worker should, at a minimum, notify the building principal that he/she is in the building before contacting either the student or a staff member. While the school may welcome this contact and the social worker desire it, reality may dictate that it might not occur as often as either would like. In such situations, either party should request a meeting to update all concerned individuals on the current issues, as necessary.

45. How can we avoid stigmatizing youth living in out-of-home care in the school system?

This is as much a philosophical as a procedural question. Philosophically, the school staff must understand and accept that children living in out-of-home care are students who, due to certain conditions, have been removed from their homes. It is important for the school to realize that placement in foster care does not mean that the child has failed. Unless the school staff starts from that basis, procedural approaches will not affect the stigmatization.

Procedurally, the school can make all opportunities to participate in the school activities and the educational process available to the students who are living in out-of-home care and their foster parents. As well, the fact that the child is living in out-of-home care may mean that additional factors need to be considered to involve the student and the foster parents in a successful educational experience. The school should assign a staff person to maintain regular contact with the student and the foster parents, either formally or informally, to keep communication clear and avoid problems that might lead to further stigmatization. Any communication about the general school activities that would ordinarily go to a parent should also go to the foster parent. It is also a good idea to send a copy to the child's social service worker. See question 46 regarding the student's education file.

46. Who can review the child's education file? What are the procedures that need to be followed?

a. What are the current requirements regarding the exchange of information about a child?

- b. May school records be shared with foster parents?
- c. How may schools communicate necessary information about a child to foster parents?

As stated in §118.125(1)(d), Wis. Stats., pupil records mean all records maintained by the school but does not include notes or records used by a licensed school staff person if such notes or records are not shared with any other person. Pupil records also do not include records necessary for and available only to persons involved in psychological treatment of the child. Pupil records consist of five main types and are protected by confidentiality laws as per §118.125, Wis. Stats., and the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232 G.

1. Behavioral records include a pupil's psychological tests, personality evaluations, records of conversations, any written statement relating to a child's behavior, tests of achievement or abilities, physical health records other than those pertaining to immunization or lead screening records, law enforcement records and any other records that are not progress records.
2. Progress records include a pupil's grades, statement of courses taken, attendance record, immunization record, lead screening record, and record of the extracurricular activities in which the pupil has been involved.
3. Pupil physical health care records include basic health information, immunization records, an emergency medical card, a log of first aid and medicine administered, an athletic permit card, a record of the student's ability to participate in an education program, lead screening records, the results of any routine screening test (hearing, vision, scoliosis), and any follow-up to such test.
4. Directory data is information such as a pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized sports and activities, weight and height of athletic team members, dates of attendance, photographs, degrees and awards received and the name of the school most recently attended prior to the current school.
5. Patient health care records include any record that relates to a student's health that is not a pupil physical health care record.

For additional or more complete information, please refer to §118.125, Wis. Stats.

School records specified by the parents, guardian, or surrogate parent may be shared with foster parents if the parents or guardian or surrogate parent give the school signed permission to do so or the school receives a court order. Obtaining this permission would allow the school district to communicate with the foster parent at the same time as they communicate with the parent, guardian or surrogate parent.

State and federal education statutes, Wisconsin Chapters 115 and 118, FERPA and IDEA, do not authorize release of records to social services without written consent or a court order. However, it may be important for the county social service agency to access education records as part of its supervision of a child living in out-of-home care. Consequently, it is suggested that written permission from the parent, guardian or surrogate parent or a court order allowing social services access to a student's educational records be obtained at the beginning of the supervision period.

47. What information is most important for educators to have when a student transfers into a district?

The fact that the student is to live in out-of-home care does not mean that the school needs to know the details of the child's home life. There are three types of information that educators must have when a student transfers into a district. This information is the same regardless of whether a student is living with their parents or in out-of-home care. First, the school needs to know the child's address and the responsible party for educational matters. If someone other than the parent is to make important educational decisions for the student, the school should ensure that person has the explicit approval or, depending upon the circumstances, at minimum tacit approval, from the parent or from a court to serve in that capacity.

Second, the school must have all the educational information that tells them what type of school services are necessary to meet the student's educational needs. This information is forwarded to the school through normal educational channels. However, if the social service worker knows this information and the child's records have not arrived, sharing the information as soon as possible will be helpful to the student.

Third, the school needs to have information that pertains to the student's safety and the safety of others. If the child has uncontrolled seizures and needs medication, or the student is liable to become violent and harm someone, or the child is depressed and suicidal, these are critical pieces of information that need to be shared.

48. How can records be transferred in a timely manner?

If movement of a child from one district to another is anticipated, a school district should be informed so it can forward the material immediately when the move actually occurs. An alternative would be to have the parents or guardians request a copy of the records and to provide these to the receiving district. Section 118.125(4), Wis. Stats., requires that a school district transfer to another school or school district all pupil records relating to a specific pupil within five working days after the school district receives written notice from:

1. the adult pupil, parent, or guardian that the pupil intends to enroll in another school or school district,
2. the other school or school district that the pupil has enrolled, or
3. a court that the pupil has been placed in a secured correctional facility, secured child caring institution, or secured group home.

49. Is a residential facility that has been providing educational services to a youth who has now enrolled in a public school required to forward the student's educational records to the public school once the facility has received notice the student has enrolled in the public school?

Yes, if the residential facility is a secured correctional facility, a secured child caring institution, secured group home, adult correctional institution, mental health institute or center for the developmentally disabled. Section 118.125, Wis. Stats., requires educational records be forwarded within five working days upon receiving written notice from the receiving school district that the student has enrolled or from the adult pupil, parent, or guardian that the pupil intends to enroll in another school district.

50. What can be done to facilitate communication between social services agencies and school districts?

The Departments of Public Instruction and Health and Family Services recommend that social services agencies and school districts establish a program of enhanced cooperation and collaboration by instituting specific interagency approaches. Examples of such measures are 1) an interagency task force, 2) a designated liaison position in each agency to maintain regular contact, 3) shared annual in-service meetings to update staff from both agencies on the functioning of the other system, and 4) staffing procedures for difficult cases. Other efforts such as immediate notification when significant changes occur in either program can also be utilized to prevent misunderstanding and facilitate communication.

V. Funding

51. Do school districts receive any financial aid for serving children in foster homes?

Current Wisconsin law, §121.79, Wis. Stats., requires the state to pay tuition for students who reside in foster or group homes located outside the school district in which the student's parent or guardian resides, *but only when these homes are located on tax exempt property under §70.11, Wis. Stats.* The amount of tuition is calculated on the daily cost per student incurred by the school district that provides the service, multiplied by the number of school days the pupil was enrolled. The present statutes require DPI to reimburse school districts for 100 percent of prior year costs, after federal and state aids have been deducted.

52. Does educational funding follow a foster child when the child is placed in a foster home located in another school district?

General school aids are determined, in part, on the basis of a count of resident students taken on the third Friday of September and the second Friday of January. If the child is not a resident of the school district on those school dates, they are not counted and there is no general school aid generated.

Under certain circumstances, if the child was determined eligible under the Individuals with Disabilities Education Act (IDEA) as a child with a disability, and the child is a resident of the district on December 1, the child may be counted for federal funds to be allocated the following year.

State handicapped children categorical financial aids are reimbursed to districts based on previous year costs for certain items such as special education staff salaries and fringe benefits and transportation. These funds would not be based on a per child cost.

53. When a school district programs for a child without disabilities but with educational needs that are still difficult to meet, are there special incentives for them to assume this responsibility?

All students in Wisconsin have the right to a public education and are entitled to attend schools in the school district where they live. In the case of foster children, they live in the district in which their foster home is located and that district must provide an educational opportunity for them.

In general, there are no special incentives for districts to accept students who require a disproportionate investment of time, effort and money, but the general state aid for these students follows them from their old district to their new one.

Each district must assure the health and safety of the student body to the best of its ability. Occasionally, some children represent a threat to that health and safety. In such instances, the social services agency and the school may need to confer to decide the most appropriate plan for the child. It is possible that the school district may be liable for some costs of a plan that transfers the difficult student to another location. For instance, if the student remains in the same foster home but the school district decides, for educational purposes, the student must attend class in another district, the district in which the foster home is located would be responsible for tuition and transportation costs.

54. How will differences between the schools and the social service agencies be resolved in areas such as treatment plans and fiscal responsibility?

Each of the two systems has a set of rules and regulations that govern their operation. Those rules and regulations must be followed. There are general assumptions which can be made that avoid conflict between the two agencies. First, out-of-home care provides for the basic maintenance for youth living in out-of-home care. It does not provide for educational costs. If a school district pays for an activity for other students, it will be expected to pay for that same expense for a child living in out-of-home care. If a parent pays for the expense, such as a field trip or class ring, the out-of-home care payment may cover that cost. Foster parents may also voluntarily choose to pay this cost out of their own pocket, but they are not required to do so. In some situations, the child's parents may be willing and able to pay this cost, so the situation should be discussed with the social service agency. Youth who are living in out-of-home care under a court order are generally considered a family of one for the purposes of qualifying for free or reduced lunch and breakfast. For miscellaneous costs, some districts and/or agencies maintain a special fund to meet these needs. Larger costs that are necessary for the child's health and safety, such as medical care or equipment, are covered by various social service-related programs. Social service agencies are familiar with the appropriate funding resources and limitations, so schools need to consult with them to determine fiscal responsibility in individual cases.

Treatment decisions for medical or psycho-social planning are primarily under the jurisdiction of the social service agency. Districts often have critical information that can influence how treatment plans are developed or implemented, but the county agency generally has the legal responsibility to make the appropriate decisions. In the case of a dispute, the school may advocate for a different or modified approach by first seeking a conference with administrative staff of the social service agency. If that is not satisfactory, the district may contact the appropriate regional office of the state Division of Children and Family Services. Educational decisions that may have a bearing on the treatment plans of the social service agency are under the jurisdiction of the district and may also be discussed in conference with agency administrative staff to resolve difficulties.

In either case, the educational and treatment plans of the students should be balanced and coordinated and the agencies involved should cooperate to insure an effective social and educational program for children. Other efforts such as immediate notification when significant changes occur in either program can also be utilized to prevent misunderstanding and facilitate communication.

VI. Child Abuse and Neglect

55. How does the child welfare agency decide how quickly to investigate a report of suspected child abuse or neglect?

County agencies are required to initiate a diligent investigation within 24 hours after receipt of a report. This means that, at a minimum, upon receipt of a report that agency must gather and document certain information. The information must pertain to the alleged maltreatment, current and past, and the circumstances surrounding it; a description of the child, parents and family; whether or not the child is an Indian child (as defined by the Indian Child Welfare Act); identifying information on all members of the household; information on the reporter; and any other people who may have information regarding the family or situation. If after these preliminary actions a referral is accepted as appropriate for assessment, a determination of how quickly a face-to-face contact with the principals of the report is made. Threats of harm to the child in the report are assessed and this assessment helps the agency determine the urgency of response at the time of intake. Determination of response time is also based on a number of other factors, including the type and nature of the maltreatment, child functioning and parental functioning.

56. What information is a mandated reporter entitled to receive after making a report of suspected child abuse or neglect?

In accordance with Wisconsin statutes, the agency must inform the reporter “within 60 days after it receives a report . . . what action, if any, was taken to protect the health and welfare of the child . . .” This does not permit the actual disclosure of whether a report was substantiated or not. [Ref. § 48.981(3)(c)6., Stats.]

57. What are the possible outcomes of an investigation of suspected child abuse or neglect?

If the information received in a referral is determined to meet the definition of child maltreatment or risk of maltreatment, then an assessment is completed. If the information obtained does not meet the definition, then the referral is screened out and there is no assessment. Upon completion of the assessment, a determination is made as to whether or not the maltreatment reported is substantiated or unsubstantiated or whether information obtained in the assessment indicates that there is a likelihood of future abuse or neglect.

More importantly, the child welfare agency needs to determine if services are needed to either provide for the safety of or assist in reducing risk to the child in the home. With regard to service provision, there are several possible outcomes. Depending upon safety concerns or the level of risk to the child, services may be either voluntarily provided or mandated through court order. Services may be provided by either the child welfare agency or by area service providers, or both. A family may be receiving services, but a case may not be opened with the child welfare agency. The status of a case (i.e., whether it is opened for services or not) often depends upon a family’s willingness to receive services from the child welfare agency, any safety or risk issues present in the home or the ability of the agency to obtain a court order mandating services when it is believed that the child is unsafe or is at risk of abuse or neglect.

58. Is a county child protection worker entitled to receive or review student records as part of an investigation of suspected child abuse or neglect?

All mandated reporters under §48.981(2), Wis. Stats., are required to cooperate with an investigation of suspected child abuse or neglect. Under the Family Educational Rights and Privacy Act (FERPA) personally identifiable information, including the contents of a student's education records, may be disclosed if it is necessary to protect the health and safety of the student or other individuals. Clearly, the health and safety of a student is in question when a report has been made for suspected child abuse or neglect. It is possible that some select portions of a student's education records may be pertinent to the county's investigation. For instance, a social history completed by the school social worker prior to the report of suspected child abuse may include a reference that the parents use corporal punishment as their primary form of discipline. Under these circumstances, the school professional must use his/her professional judgement to determine whether the disclosure of this information is necessary to protect the health and/or safety of the student. If so, only that information that is necessary to protect the health and safety of the student may be disclosed. For instance, in the example cited above, the school social worker might determine it was necessary to disclose the parents' use of corporal punishment as their primary form of discipline but would not provide a copy of the social history to the county child protective service worker.

VII. Student Discipline

59. Who determines if an absence is excused?

Under §118.16(4)(A), Wis. Stats., the school board establishes a written policy specifying the reasons for which pupils may be permitted to be absent from school.

However, §118.15(3)(c), Wis. Stats., provides in part that compulsory attendance does not apply to any child excused *in writing* by his parent or guardian *before* the absence. A child may not be excused for more than 10 days in a school year under this provision.

60. What is truancy and habitual truancy?

A student is considered truant if he/she is absent without an acceptable excuse for all or part of one or more days during which school is held. A student qualifies as habitually truant when he or she is absent without an acceptable excuse for all or part of five or more days in a school semester, under §118.16(1)(a) and (c), Wis. Stats.

For additional information, please refer to the document: *Answers to Frequently Asked Questions About Compulsory School Attendance, Suspension and Expulsion, Dropouts, Educating Incarcerated Youth and Contracting With Technical Colleges* published by the Wisconsin Department of Public Instruction at www.dpi.state.wi.us/dpi/dlsea/een/index.html.

61. May a school use corporal punishment as a form of student discipline?

No. Section 118.31, Wis. Stats., prohibits schools from using corporal punishment as a form of discipline. However, the statute allows use of necessary and reasonable force under specific circumstances:

1. to control a disturbance or prevent someone from being physically hurt,
2. to get a weapon from a student,
3. for self-defense or the defense of others,
4. for the protection of property,
5. to remove a disruptive student,
6. to prevent a student from self-injury, and
7. to protect the safety of others.

In addition, a school employee may use incidental, minor or reasonable physical contact designed to maintain order and control. School districts are required to have a policy that allows school employees to use reasonable and necessary force for the purposes listed above.

62. Are there any statutes that govern the personal privacy of students?

Yes. Section 118.32, Wis. Stats., prohibits school employees, officials or agents from conducting a strip search of any student. Section 118.325, Wis. Stats., allows a school employee, official or agent to search a student's locker without the consent and without notifying the student or obtaining a search warrant as long as the school has a written policy specifying 1) the school retains ownership and control of student lockers, 2) who may search lockers, and 3) students have received a copy of the policy.

63. What is the school district's authority to suspend a student?

The authority of a school district to suspend a student is found under §120.13(1)(b) and (bm), Wis. Stats. A student may be suspended for not more than five days or, if a notice of expulsion hearing has been sent, for not more than 15 consecutive school days. The law permits a school district administrator or any principal or teacher designated by the school district administrator to suspend a student:

1. for disobeying school rules;
2. for conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by explosives;
3. for conduct while at school or under the supervision of a school authority which endangers the property, health or safety of others; and
4. for conduct while not at school or while not under the supervision of school authority which endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member in the student's district. For purposes of suspension and expulsion, conduct that endangers a person or property includes making a threat to the health or safety of a person or a threat to damage property.

The law requires suspension if the student possessed a firearm while at school or under the supervision of the school authority.

For additional information, please refer to the document: *Answers to Frequently Asked Questions About Compulsory School Attendance, Suspension and Expulsion, Dropouts, Educating Incarcerated Youth, and Contracting with Technical Colleges* published by the Wisconsin Department of Public Instruction at www.dpi.state.wi.us/dpi/dlse/sspw/techassi.html.

Special requirements apply to suspensions of children with disabilities. Please refer to DPI Information Update Bulletins #00.01 and 00.02. These bulletins can be accessed at <http://www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html>. In addition, the DPI has developed a unique Internet-based expert system to guide schools through these special requirements. This tool can be accessed at www.dpi.state.wi.us/dpi/dlsea/een/index.html (click on “Disciplinary Action Advisor”).

64. What is the school district’s authority to expel a student?

The authority of a school district to expel a student is found under §120.13(1)(c) and for Milwaukee only §119.25, Wis. Stats. A student may be expelled from school:

1. for repeated refusal or neglect to obey school rules;
2. for threatening to destroy school property by explosives;
3. for engaging in conduct while at school or under the supervision of a school authority which endangered the property, health or safety of others; and
4. for conduct while not at school or while not under the supervision of school authority which endangered the property, health or safety of others at school or under the supervision of a school authority or endangered the property, health or safety of any employee or school board member in the student’s district.

For purposes of expulsion and suspension, conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.

In addition, the school board may expel from school a student who is at least 16 years of age or older if the school board finds that the student repeatedly engaged in conduct while at school or while under the supervision of school authorities that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority.

Finally, a school board is required to commence proceedings to expel and expel a student for at least one calendar year for possession of a firearm at school or under the supervision of a school authority. The board may, however, modify this requirement on a case-by-case basis.

Special requirements apply to the expulsion of students with disabilities. Please refer to DPI Information Update Bulletins #00.01 and 00.02. These bulletins can be accessed at <http://www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html>. In addition, the DPI has developed a unique Internet-based expert system to guide schools through these special requirements. This tool can be accessed at www.dpi.state.wi.us/dpi/dlsea/een/index.html (click on “Disciplinary Action Advisor”).

65. Are there any special considerations when a school district seeks to expel a child with a disability?

Yes. Before expelling a child with a disability, an IEP team and other qualified professionals must first determine that the behavior subject to expulsion is *not* a manifestation of the child’s disability. The IEP team must consider all relevant information in terms of the behavior subject to expulsion, including:

1. Evaluation and diagnostic results, including the results or other relevant information from the parents of the child;

2. Observations of the child; and
3. The child's individualized education program and placement.

If, in the manifestation determination review, the local educational agency identifies deficiencies in the child's IEP or placement or in their implementation, the agency must correct those deficiencies immediately.

If the IEP team determines that any of the standards below are *not* met, the behavior is considered a manifestation of the child's disability and the child may not be expelled.

1. In relationship to the behavior subject to disciplinary action, the child's individualized education program and placement were appropriate, and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's individualized education program and placement.
2. The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action.
3. The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

If the IEP team determines the behavior for which the child is being expelled is *not* a manifestation of the child's disability, then the school board may expel the child in the same manner as a child without a disability. *However, the school district may not cease providing special education and related services to the child during the period of expulsion.* The school must continue to provide services necessary to enable the child to progress appropriately in the general curriculum and appropriately advance toward achieving IEP goals. The child's IEP team determines the extent of the services. Therefore, the team must review the child's IEP and placement, as needed, to ensure the continued provision of services to the child.

If the IEP team determines the behavior is a manifestation of the child's disability, the school may not expel the child. The school may, however, pursue an appropriate change of placement through the IEP team process.

For more information about disciplining students with disabilities, consult Information Update Bulletins 00.01 and 00.02. These bulletins can be accessed at <http://www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html>. The Department of Public Instruction has also developed a unique internet-based expert system to guide schools through the discipline requirements. This tool can be accessed at www.dpi.state.wi.us/dpi/dlsea/een/index.html (click on "Disciplinary Action Advisor").

VIII. Special Education

66. Who has the authority to grant consent to evaluate a child for a suspected disability, to grant consent for initial placement in special education or to consent to reevaluation?

The child's "parent" may consent to evaluate a child for a suspected disability, to place a child in special education or to reevaluate a child with a disability. All notices relating to the identification, evaluation, educational placement, and provision of a free appropriate public education to the child are sent to the parent, person acting as a parent or surrogate parent. A foster parent does not have the authority to consent unless the local educational agency determines that the foster parent may act as a

parent under the law (Question 71), or the local educational agency assigns the foster parent as a surrogate parent to represent the child.

67. Who is a parent of a child with a disability?

The term “parent” includes:

1. A biological parent;
2. A husband who has consented to the artificial insemination of his wife under §891.40, Wis. Stats.;
3. A male who is presumed to be the child’s father under §891.41, Wis. Stats.;
4. A male who has been adjudicated the child’s father under Subchapter VIII of Chapter 48, under §§767.45 to 767.51, by final order or judgement of an Indian tribal court or by final order of a court in another state;
5. An adoptive parent;
6. A legal guardian;
7. A person acting as a parent of a child (see Question 68);
8. A person appointed as a sustaining parent under §48.428;
9. A person assigned as a surrogate parent under §115.792(1)(a)2., Wis. Stats. (see Questions 69-70, 75-77);
10. A foster parent, if certain conditions are satisfied. See Question 71.

The term "parent" does not include-

- any person whose parental rights have been terminated;
- the state or county or a child welfare agency if a child was made a ward of the state or a county or child welfare agency under ch. 880 or if a child has been placed in the legal custody or guardianship of the state or a county or a child welfare agency under ch. 48 or ch. 767;
- an American Indian tribal agency if the child was made a ward of the agency or placed in the legal custody or guardianship of the agency.

68. Who is a “person acting as a parent?”

A “person acting as a parent of a child” is a relative of the child or a private individual allowed to act as a parent of a child by the child’s biological or adoptive parents or guardian. It includes the child’s grandparents, neighbor, friend or private individual caring for the child with the explicit or tacit approval of the child’s biological or adoptive parents or guardian. It does not include any person that receives public funds to care for the child if the funds exceed the cost of the child’s care.

69. Who is a surrogate parent?

A “surrogate parent” is a person assigned by a local educational agency to represent a child with a disability in all matters relating to the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE) to the child.

70. When is a surrogate parent assigned?

A local educational agency must make reasonable efforts to identify and determine the whereabouts of a child’s “parent” as defined under special education law (see definition of “parent” in question 67). If

an agency is unable after reasonable efforts to identify and determine the whereabouts of a parent, then the agency must appoint a surrogate parent to protect the rights of the child. A local educational agency may not appoint a surrogate parent to circumvent the procedures for obtaining consent for special education evaluation or placement from uncooperative or non-responsive parents. The Department of Public Instruction recommends that a local educational agency obtain a copy of the court order relating to the custody of the child prior to denying a biological or adoptive parent the rights of a parent under special education law.

71. When may a foster parent act as a child's parent for the purpose of special education?

Generally, a foster parent cannot act as the child's parents for the purpose of special education. However, under certain circumstances, a local educational agency may determine that a foster parent has the rights and responsibilities of a parent under special education law. A county social or human services department has no authority to do so. A local educational agency can determine that a foster parent has the rights and responsibilities of a parent if the local educational agency determines all of the following:

1. The right of the "parent" (as defined in Question 67, items 1-5) to make educational decisions concerning the child has been extinguished by termination of parental rights, by transfer of guardianship or legal custody or by other court order.
2. The foster parent has an ongoing, long-term parental relationship with the child.
3. The foster parent is willing to make educational decisions required of parents under special education law.
4. The foster parent has no interests that would conflict with the interests of the child.

The precise length of time for determining when a "long-term" parental relationship exists is not defined. In determining whether the foster parent has such a relationship with the child, the LEA should consider the amount of time that the child has been in the current foster placement and the anticipated permanency of the placement.

Generally, an employment relationship between the foster parents and the agency responsible for the child's care would create a conflict between the foster parents' interests and those of the child. However, in most cases foster parents are not employees of the agency responsible for the child's care, and they do not receive wages. They may receive payments on behalf of the child to meet the child's needs. The foster parents are not considered employees of the agency responsible for the child's care because they receive such payments.

Attached to this bulletin is a form that a local educational agency may use to document that it has designated a foster parent as a parent for the purpose of special education. The Department of Public Instruction recommends that the local educational agency obtain a copy of the court order extinguishing the rights of the child's parents prior to designating the foster parent to act as the parent. An otherwise qualified foster parent may also serve as the child's surrogate parent when appointment of a surrogate parent is required. See question 70.

72. If the court assigns an employee of a county social services or human services agency as a child's guardian, is that person a parent under special education law?

If an employee was assigned as the child's guardian because of his/her position with the county agency, or if the employee acts as the child's guardian as a part of a job with the agency, then the

employee is an agent of the county agency and is not considered a "parent" under special education law.

73. May a local educational agency treat an individual who advocates on behalf of students with disabilities as the child's parent?

The local educational agency must meet the requirements of special education law by continuing to provide mandated notices to the child's parent, and it must continue to attempt to involve the parent in required meetings relating to the evaluation, program planning and educational placement. Advocates can receive information about the child only with the signed consent of the parent. Even with parental consent, notifying only the advocate of meetings would not satisfy the requirements, and attendance only by the advocate at IEP team meetings would not satisfy the requirements related to efforts to involve parents in IEP team meetings.

74. May a biological parent object to a decision made by an IEP team that did not include the biological parent, but included a person acting as a parent?

As long as his/her rights have not been terminated by a court order, a biological or adoptive parent or guardian may assert parental rights under special education law at any time.

75. Who may be assigned by a local educational agency as a surrogate parent?

Any person meeting the qualifications under 34 CFR §300.515(c), including a foster parent, may be appointed a surrogate parent for a child. The local educational agency must ensure that a person selected as a surrogate parent:

1. Is not an employee of the Department of Public Instruction, the local educational agency or any other agency that is involved in the education or care of the child (This requirement applies to all employees of the agency and not just those working directly with a particular child);
2. Has no interest that conflicts with the interests of the child he/she represents; and
3. Has knowledge and skills that ensure adequate representation of the child.

A local educational agency may appoint as a surrogate parent a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards above. With regard to these and other qualifications, it is the local educational agency that determines whether a particular person is qualified. Attached to this bulletin is a form that a local education agency may use to document that it has assigned a surrogate parent.

76. If the state, a county, or a child welfare agency already has the authority to make educational decisions for a child, why must a surrogate be assigned?

While the state, county, or child welfare agency may have the authority generally to make educational decisions under the terms of a court order, it does not have specific authority under special education law to make decisions regarding the identification, evaluation, educational placement, and provision of a free appropriate public education (FAPE) to a child with a disability. Special education law does not recognize the state, a county or a child welfare agency as the parent of a child.

77. May surrogate parents be paid for performing their duties?

Yes. An individual may be paid for acting as a surrogate parent without being disqualified under the non-employee requirement. However, nothing in the law requires that a surrogate parent be paid.

78. What role may the foster parent play in special education decision-making in a case where the parent retains legal rights?

A local educational agency should ensure that individuals who have necessary knowledge or special expertise regarding the child participate in IEP team meetings. Such individuals may include the child's foster parents. However, before the child's foster parents participate in an IEP team meeting, the child's parent with the legal right to grant consent to release education records must give that consent in writing.

79. What is the local educational agency for a child with a disability?

Generally, the child's local educational agency is the school district in which the child resides. If a child with a disability resides in an institution or facility operated by the Wisconsin Department of Health and Family Services, that department is the child's local educational agency. If a child with a disability resides in a Type 1 secured correctional facility or a Type 1 prison operated by the Wisconsin Department of Corrections, that department is the child's local education agency.

The responsible local educational agency for a child residing in a "child caring institution" is the educational agency that was responsible for providing a free appropriate public education to the child before the placement of the child in a child caring institution. However, if prior to the placement of the child in a child caring institution the child resided in a Type 1 secured correctional facility or a Type 1 prison operated by the Wisconsin Department of Corrections or a facility operated by the Department of Health and Family Services, the responsible local educational agency is the school district in which the child caring institution is located. The county or state agency that placed the child in the child caring institution must pay all of the child caring institution related costs of educating the child while the child resides in the child caring institution.

80. What is an IEP team? Who is involved?

An IEP (individualized education program) team is a group of individuals appointed by a local educational agency to:

1. Evaluate a child to determine the child's eligibility or continued eligibility for special education and the educational needs of the child;
2. Develop, review, and, when necessary, revise an IEP for a child with a disability;
3. Determine the initial educational placement of a child with a disability and determine placement at least annually thereafter.

An IEP team consists of:

1. The parents of the child;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

3. At least one special education teacher who has extensive and recent training and experience related to the child's known or suspected disability;
4. A representative of the local educational agency who is qualified to provide, or supervise the provision of, special education, is knowledgeable about the general curriculum and is knowledgeable about and authorized to commit the available resources of the local educational agency;
5. An individual who can interpret the instructional implications of evaluation results;
6. At the discretion of the parent or the local educational agency, other individuals who have special knowledge or special expertise about the child; and
7. The child, whenever appropriate.

81. Who may initiate an IEP team evaluation?

Any physician, nurse, teacher at a state or county residential facility, psychologist, social worker, administrator of a social agency, or any Department of Public Instruction-licensed personnel employed by a local educational agency who has reasonable cause to believe that a child has a disability *must* refer the child to the local educational agency for an IEP team evaluation. Other persons, including the child's parents, may refer the child for an IEP team evaluation. This is a special education referral, and the day it is received by the local educational agency starts a timeline of 90 days. Within this time the school must evaluate the child, determine whether the child is eligible for special education, and if the child is eligible, develop an IEP and offer an educational placement to implement the IEP.

82. What is an individualized education program?

An IEP is a written statement for a child with a disability that includes:

1. The child's present levels of educational performance;
2. Measurable annual goals, including benchmarks or short-term instructional objectives;
3. The specific special education and related services and supplementary aids and services to be provided to the child;
4. An explanation of the extent, if any, to which the child will not participate with non-disabled peers in the regular class and other school activities and in the general curriculum;
5. A statement of any individual modifications in the administration of State or district-wide assessments that are needed for the child to participate or, if the child will not participate, why the child will not participate and how the child will be assessed;
6. Projected dates for the beginning of the services and modifications and the anticipated frequency, location and duration of the services and modifications; and
7. How the child's progress toward annual goals will be measured and how the child's parents will be regularly informed of their child's progress and the extent to which the progress is sufficient to enable the child to achieve the goals by the end of the year.

For a student beginning at age 14 or younger if appropriate, the IEP includes a statement of transition service needs focusing in the student's courses of study. For a student beginning at age 16 or younger if appropriate, the IEP includes a statement of needed transition services, including, if appropriate, a statement of the interagency responsibilities or any needed linkages. Transition services are a coordinated set of activities, designed within an outcome-oriented process, that promotes movement from school to post-school activities such as post-secondary education, vocational training, employment, continuing and adult education, adult services, independent living, or community participation.

83. What is the process for developing an IEP?

The local educational agency holds an IEP team meeting to develop an IEP no later than 30 days after the team determines that a child is a child with disability. Often an IEP can be developed at the same meeting in which the IEP team determines the child's eligibility. A new IEP must be developed at least annually. In addition to the IEP team participants in Question 80, if one purpose of the meeting is consideration of post-school transition, the local educational agency also must invite the student. If the student does not attend the meeting, the local educational agency must ensure the interests and preferences of the student are considered. If one purpose of the meeting is consideration of needed transition services, which may include, if appropriate, a statement of interagency responsibilities and linkages, the local educational agency also must invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.

The IEP team must consider the child's strengths and the concerns of the parents for enhancing the child's education; the results of the initial or most recent evaluation; and, as appropriate, the results of the child's performance on any general state or district-wide assessment. The IEP team must also:

1. In the case of a child whose behavior impedes his/her learning or the learning of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
2. In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the IEP;
3. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
4. Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
5. Consider whether the child requires assistive technology devices and services.

84. May a representative of a social services or human services agency participate in the development of transition services for a child?

The law requires that when transition services are considered for a child at a meeting to develop the child's IEP, a local educational agency invite a representative of agencies that are likely to be responsible for providing or paying for transition services. This requirement would include inviting a representative of a social services agency. If an agency invited to send a representative does not do so, the school district must take other steps to obtain the participation of the agency in planning any transition services.

85. What must be included in the statement of needed transition services for a student beginning at age 16?

A statement of transition services for a student beginning at age 16, or younger if appropriate, must be based on the individual student's needs, taking into account the student's preferences and interests. It

includes: instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and, if appropriate, acquisition of daily living skills and a functional vocational evaluation.

86. What is the process for implementing the IEP?

After an IEP has been completed for a child, the IEP team, including the child's parents, determines the child's educational placement, including the school building or facility the child will attend. The members of the IEP team must be knowledgeable about the child, the evaluation data concerning the child, and the placement options. The educational placement is based upon and carries out the IEP. Special education and related services must be provided to the child consistent with the IEP.

87. When is the educational placement implemented?

A reasonable time prior to implementing the IEP, the local educational agency provides the parent or surrogate parent a written notice of educational placement. If the child is being placed in special education for the first time, prior to the provision of special education, the local educational agency must obtain the parent's written consent for the provision of special education. Once the notice and consent requirements of the law are satisfied, there can be no unreasonable delay in the implementation of the educational placement.

88. How can an IEP and educational placement be revised?

Only an IEP team may revise a child's IEP and change a child's educational placement. Therefore, in order to revise a child's IEP or change a child's educational placement, a local educational agency must conduct an IEP team meeting. A child's parent may request the local educational agency to conduct an IEP team meeting for the purpose of changing the child's IEP and/or educational placement. The local educational agency must honor any reasonable request for an IEP team meeting. If a local educational agency refuses a request for an IEP team meeting, it must send the parent a notice of its refusal.

89. What informal avenues are available to resolve a dispute concerning the identification, evaluation, educational placement or the provision of free appropriate public education to a child?

Most disagreements between parents and a local educational agency about special education can be resolved through discussions at IEP team meetings. If a disagreement cannot be resolved in this manner, the parents and the school may use the Wisconsin Special Education Mediation System (WSEMS). There is no charge for this service. The parents or the local educational agency may request mediation individually or jointly. A joint request will speed the process. The WSEMS will appoint a mediator to help the parties resolve the dispute in a private meeting. If the parties resolve all or part of the dispute, the mediator will ensure that the agreement is in writing. The agreement is legally binding on the parties. Mediation may not delay or deny a parent's right to an impartial due process hearing.

90. What legal avenues are available to resolve a dispute concerning the identification, evaluation, educational placement, or provision of a free appropriate public education to a child with a disability?

It is preferable that special education disputes be resolved at IEP team meetings or through mediation. Resolution of disputes in this manner encourages mutual respect, promotes communication and preserves a positive working relationship for the future. However, a parent, a person acting as a parent or a surrogate parent of a child with a disability has the right to have their issues heard before an impartial hearing officer.

A "due process hearing" under §115.80, Stats, may be requested from the Wisconsin Department of Public Instruction to resolve a dispute concerning the identification, evaluation, educational placement, or provision of a free appropriate public education. The department will ensure that a state administrative law judge conducts a hearing on the issues and sends a written decision to the parties within 45 days of the department's receipt of the hearing request. The hearing officer may grant extensions of the 45-day period at the request of either party. The hearing officer's decision is final unless a party appeals the decision to a state or a federal court.

In addition, any person who believes a local educational agency has violated a provision of special education law may file a complaint under the Individuals with Disabilities Education Act with the Department of Public Instruction. The department must issue a decision within 60 days.

91. What is the status of the child during the due process hearing and any subsequent appeals?

During the due process hearing, the child involved in the hearing remains in his/her current educational placement, unless the parent and the school district agree otherwise. If the decision of the hearing officer agrees with the parents that a change of placement is appropriate, the child is placed in the new placement until the completion of any subsequent appeals. Children placed in interim alternative educational settings under the disciplinary provisions of the Individuals with Disabilities Education Act (IDEA) are subject to different requirements. See Department of Public Instruction Special Education and Pupil Services Information Update Bulletin number 00.02, questions 37 and 38.

If the dispute involves initial admission to public school, the child, with the consent of the parent, must be placed in the public school until the completion of the hearing and subsequent appeals.

92. Are local educational agencies required to provide special transportation to children with disabilities?

For children with disabilities, special transportation may be a related service if it is necessary for the child to benefit from special education. The child's IEP team decides whether special transportation is needed. If they determine it is needed, a description of the special transportation is included in the child's IEP. The special transportation must be provided consistent with the child's IEP and at no cost to the child's parents.

In some instances a local educational agency may be required to provide special transportation to a parentally placed private school child with a disability. A local educational agency is not required to provide special education services to all parentally placed private school children with disabilities. These students do not have an individual entitlement to special education and related services. See Information Update Bulletin 98.01, *Children with Disabilities Enrolled by Their Parents in Private Schools*.

However, if a local educational agency does provide education services to a private school child with a disability, the local educational agency must provide transportation if it is necessary for the child to benefit from or participate in the special education services. In such a case, the local educational agency must provide transportation:

- from the child's school or the child's home to a site other than the private school; and
- from the service site to the private school, or to the child's home, depending on the timing of the services.

93. What can be done about bus problems? Can special considerations be given for a child with a disability?

Unless otherwise required by a child's IEP, a local educational agency provides transportation to a child with a disability in the same manner as to a child without a disability. If the child has a disability that requires special transportation, the local educational agency must ensure it is provided at no cost to the parents. Section 121.54(3), Wis. Stats., requires that transportation be provided to children with disabilities regardless of distance if the transportation is necessary for safety and comfort of the child. The need for special transportation is decided by the participants in an IEP team meeting and is stated as a related service in the IEP.

If a child with a disability is experiencing significant behavior difficulties on the school bus, the child's IEP team should consider including in the child's IEP positive behavioral interventions to teach the child appropriate school bus behavior. If the unacceptable behaviors continue, even after appropriate efforts to address them, the IEP team may need to consider other means of providing transportation.

94. When a child with a disability transfers from one Wisconsin local educational agency to another, must special education services, including special transportation, be initiated immediately for the child?

When a child with a disability transfers from one Wisconsin local educational agency to another, all special education services in a child's IEP, including special transportation, must be provided without interruption. The child may not be placed, even temporarily, without appropriate special education services.

95. Is an IEP team evaluation and IEP for a child conducted in one local educational agency valid in another? Must the receiving agency accept the sending agency's evaluation and IEP? Can the receiving agency conduct another evaluation and develop a new IEP?

A local educational agency receiving a transfer student from another Wisconsin agency must implement the IEP from the sending agency until the receiving agency adopts the sending agency's IEP or develops its own. If the receiving agency cannot implement all of the sending agency's IEP, the receiving agency must provide services that approximate the IEP as closely as possible. If an IEP meeting is needed, it should be conducted within a short time after the student enrolls (normally within one week).

The receiving local educational agency must either adopt the evaluation of the sending agency or complete a reevaluation of the student. If the agency decides to reevaluate the student, it must do so consistent with §115.78(3), Wis. Stats., which establishes a 90-day time limit. The 90-day timeline

begins when the student enrolls. The law permits extension of the 90-day time limit with the permission of the parent or, if the parent does not grant permission, the Department of Public Instruction.

When a Wisconsin local educational agency receives a transfer student from another state, the receiving agency is not required immediately to implement the sending agency's IEP. However, the receiving agency must ensure that the rights of the student and the parents are not compromised. See OSEP (Office of Special Education Programs) Memorandum 96-5, December 6, 1995. A child's right to education is established under Article X, Section 3, of the Wisconsin Constitution. A local educational agency has no authority to deny enrollment to a resident child. Therefore, the agency must admit the child to school without delay.

The receiving agency must initially review the out-of-state agency's evaluation and eligibility determination to determine whether the child has a disability under Wisconsin standards and the IDEA. If the evaluation and eligibility determination meet these standards, the receiving agency may adopt them. If the receiving agency does not adopt the out-of-state agency's evaluation, it must complete its own evaluation with 90 days of the child's enrollment.

For additional information, see Department of Public Instruction Information Update Bulletin 00.10, which addresses local educational agencies' responsibilities regarding transfer pupils with disabilities.

96. What options are available to a small local educational agency when a child with a disability who has extensive needs is placed there and an appropriate program does not currently exist?

The local educational agency may expand the educational placement options within the agency. In some cases, additional staff, including special education program aides, may be employed to assist in providing the child with an appropriate education.

However, a local educational agency is not required to provide every child with a disability with an appropriate educational placement within its boundaries. The local educational agency may consider an educational placement outside the agency. It may purchase programs and services operated by a County Children's with Disabilities Education Board (CCDEB), Cooperative Educational Service Agency (CESA), or another local educational agency.

97. How can schools effectively communicate to foster parents and social services agencies what the rules and procedures are for children with disabilities?

Although districts must decide how they wish to accomplish this in a way consistent with their own situation, the following are basic methods that may be used:

1. Provide the social services agency, the parents (perhaps through the social services agency) and the foster parents with the same written materials that the districts provide to parents in the district.
2. Provide the social services agency with a copy of the appropriate policies, rules and other information pertinent to programs for children with disabilities for that agency's staff to use.
3. Invite the social services agency staff to district in-service training.

4. Establish a task force that would deal with all interagency relations including issues in the education of children with disabilities.
5. In the case of disputes, develop a local procedure to resolve the dispute. If the dispute cannot be resolved locally, request a clarification from the Department of Public Instruction or the Department of Health and Family Services.

IX. Glossary

- A -

Achievement test means a test that measures what a child has already learned.

Administrative review means the review of the child's permanency plan that must be conducted no less frequently than every six months while the child is in out-of-home care. The review is conducted by a three-person panel designated by the social services agency and appointed by the court or conducted by the juvenile court (in which case it would be called a "judicial review.") [Ref. § 48.38(5) and 938.38(5), Stats.]

Adoptive parent means a parent who has adopted a child in his/her care whose birth parents' rights have been terminated.

Alcohol and other drug abuse means the legal or illegal use of alcohol or other drugs to such an extent that the social, educational, vocational or intellectual functioning of an individual is adversely affected.

Alternate care has the same meaning as "out-of-home care."

Audiology means the related service of audiology for children with disabilities and which includes:

- identification of children with hearing loss;
- determining the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- providing habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
- creating and administering programs for prevention of hearing loss;
- counseling and guidance of children, parents, and teachers regarding hearing loss; and
- determining children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

Autism means a developmental disability significantly affecting a child's social interaction and verbal and nonverbal communication, generally evident before age 3, that adversely affects learning and educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

- B -

Babysitting means the care of a child whose parents are not at home and is differentiated from respite care and day care by its short-term and irregular nature.

Basic maintenance rate means the monthly reimbursement provided to foster parents for the provision of food, shelter, clothing, basic transportation and personal needs of a foster child and is based solely on the age of the foster child.

Behavioral records means pupil records that include:

- psychological tests;
- personality evaluations;
- records of conversations;
- any written statement relating specifically to an individual pupil's behavior;
- tests relating specifically to achievement or measurement of ability;
- the pupil's physical health records other than immunization records or lead screening records required under §254.162, Wis. Stats.; and
- law enforcement officers' records obtained under §48.396(1) or §938.396(1m) Stats.; and
- any other pupil records that are not progress records. §118.125(1)(a), Stats.

Birth parent means the biological parent of a child.

Board or School Board means the school board or board of education in charge of the schools in a school district.

Boarding homes mean homes to care for nonresident students who are receiving special education programs or services, or both, five days a week.

Bureau of Milwaukee Child Welfare means the subdivision of the Division of Children and Family Services in the State Department of Health and Family Services that has responsibility for the provision of child welfare services in Milwaukee County. This Bureau assumed this responsibility from the Milwaukee County Department of Human Services effective on January 1, 1998.

Bureau of Programs and Policies means the subdivision of the Division of Children and Family Services in the State Department of Health and Family Services which has programmatic responsibility for foster care and other out-of-home care, independent living, special needs adoption, adoption search, child welfare planning, child protective services (including abuse and neglect), family preservation and support, domestic violence and runaway youth.

Bureau of Regulation and Licensing means the subdivision of the Division of Children and Family Services in the State Department of Health and Family Services which has responsibility for child welfare licensing, including day care centers, group homes, residential treatment centers for children and youth and private child placing agencies.

- C -

Care and maintenance means the basic services provided to a foster child by a foster parent [Ref. § 48.62., Stats.]

Case manager means the employee of the social services agency who has lead responsibility for coordinating services for a child in the care of that social services agency.

Case plan has the same meaning as "permanency plan."

Case plan review has the same meaning as "administrative review."

Chapter 48 means that chapter of the Wisconsin statutes that sets forth the procedures and policies for the operation of the child welfare system. Ch. 48 is also known as the “Children’s Code.”

Chapter 938 means that chapter of the Wisconsin statutes that sets forth the procedures and policies for the operation of the juvenile justice system. Chapter 938 is also known as the “Juvenile Justice Code.”

Child means a person who is less than 18 years of age, except that for the purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “child” does not include a person who has attained 17 years of age. For the purposes of “children with disabilities,” a child means any person who is at least 3 years old but not yet 21 years old and who has not graduated from high school and, for the duration of a school term, any person who becomes 21 years old during that school term and who has not graduated from high school. §48.02(2), §938.02(2) and §115.76(3), Stats.

Child advocate means an individual who represents the interest of the child in the special education process.

Child caring institution has the same meaning as a “residential treatment center for children and youth.”

Child in need of protection or services means a child for whom the juvenile court can order services and includes a child: without parents or guardian; who has been abandoned; who has been sexually or physically abused; whose parents indicate that they are unable to care for or provide necessary special treatment or care for the child; who has been placed for care or adoption illegally; who is receiving inadequate care and the parent is missing, incarcerated, hospitalized or institutionalized; who is at least age 12 and signs a petition indicating he/she is in need of special care or treatment which the parents are unwilling to provide; who is not receiving necessary care, food, clothing or medical care so that there is serious endangerment of the child's physical health and the parent neglects, refuses or is unable (for reasons other than poverty) to provide that care or treatment; who is suffering emotional damage evidenced by severe anxiety, depression, withdrawal or aggression for which the parent is unwilling to provide treatment; who is suffering AODA impairment; or who has not received required immunizations. [Ref. § 48.13, Stats.]

Child placing agency means a child welfare agency licensed to place children in foster and group homes and in some cases, to license foster homes and treatment foster homes and to place children for adoption. A child-placing agency is regulated by Ch. HFS 54, Adm. Code [Ref. § 48.60, Stats.]

Child with a disability, means a child who, by reason of any of the following, needs special education and related services:

- Cognitive disabilities
- Hearing impairments
- Speech or language impairments
- Visual impairments
- Emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Other health impairments
- Learning disabilities

It may, at the discretion of the local school district and consistent with DPI rules, include a child who, by reason of his/her significant developmental delay, needs special education and related services. § 115.76(5), Stats.

Child welfare agency means a child caring institution or a child-placing agency. [Ref. § 48.60, Stats.]

Children's Code means Ch. 48, Stats.

Cognitive disability means a significantly sub-average general intellectual functioning existing concurrently with deficiencies in adaptive behavior manifested during the developmental period. (AAMD definition--Grosman, 1973).

Cooperative agreement or 66.30 agreement means an agreement or contract authorized under §66.30, Stats., between municipalities, including city, county, village, town, school districts or state agencies, designed to further intergovernmental cooperation.

Cooperative Educational Service Agencies (CESA) mean the 12 cooperative educational service agencies designed to serve educational needs in all areas of Wisconsin by serving as a link both between school districts and between school districts and the state. They are designed to facilitate communication and cooperation among all public and private schools, agencies and organizations that provide services to pupils. Authorization is provided under Ch. 116, Stats.

Counseling Service means a service provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

County agency means a county Department of Social Services or Department of Human Services. [Ref. § 46.215, 46.22, and 46.23, Stats.]

County Children with Disabilities Education Board (CCDEB) means a program established by a county board of supervisors to provide for one or more special schools, classes, treatment or instruction centers for children with one or more types of disabilities. [Ref. § 115.817, Stats.]

Court means, unless otherwise specified, the court assigned to exercise jurisdiction under Ch. 48 or Ch. 938, Stats., and is also known as the children's court or juvenile court. [Ref. § 48.02(2m) and 938.02(2m), Stats.]

Court condition means any requirement which the court may impose on a child or the child's family as a part of any court disposition or as part of the grounds for the child's return to the parental home if the child has been removed from the home. [Ref. § 48.355(2)(b)7., 48.38(4)(g), 938.355(2)(b)7. and 938.38(4)(g), Stats.]

Court-ordered placement means a court disposition by which the child is placed in an out-of-home setting. Approximately 96% of all out-of-home placements are court-ordered. [Ref. § 48.345, 938.34(3) and (10) and 938.345(3) and (10), Stats.]

Court report means the report submitted to the court prior to the entering of a dispositional order and which includes the child's social history, the rehabilitation or treatment plan, the services to be provided, the objectives of the plan (including academic, social and vocational skills) and a plan for the provision of educational services to the child. [Ref. § 48.33 and 938.33, Stats.]

Custodial parent means the parent to whom a court has granted legal custody. If it is "joint legal custody," both parents have equal custody rights. If it is "sole legal custody," one parent would have legal custody. [Ref. § 48.02(12), 938.02(12) and § 767.001****(i) and (6), Stats.]

Custody means either legal custody or physical custody.

- D -

Day care or child care means providing for the safety and developmental needs of a child in a group day care center, family day care center or day camp. Day care must be licensed or certified. (Ref. § HSS 55.04(4), (9), (10), (12) and (15), Adm. Code).

Deaf means a hearing impairment so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that it adversely affects a child's educational performance.

Deaf-blind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Delinquent means a juvenile who is between 10 years and 17 years of age who has violated any state or federal criminal law, except as provided in § 938.17, 938.18 or 938.183, or who has committed contempt of court. [Ref. § 938.02(3m), Stats.]

Department of Corrections means the agency of the state created under § 15.14, Stats., and charged, in part, with the powers and duties described at § 938.48, Stats.

Department of Health and Family Services (DHFS) means the agency of the state created under § 15.19, Stats., and charged, in part, with the powers and duties described at § 48.48, Stats.

Department of Human Services (DHS) means a county department responsible for social services, emotional illness treatment, developmental disabilities services, and other services as defined at § 46.23, Stats. (All counties have either a department of human services or a department of social services.)

Department of Public Instruction (DPI) means Wisconsin's state education agency, administered by the elected State Superintendent of Public Instruction.

Department of Social Services (DSS) means a county department responsible for social services and as defined at § 46.215 and § 46.22, Stats. (All counties have either a department of human services or a department of social services.)

Developmental disability means a disability attributed to brain injury, cerebral palsy epilepsy, autism, mental retardation, or another neurological condition closely related to mental retardation or requiring treatment similar to that required for mental retardation, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the affected individual. [Ref. § 51.05(5), Stats.]

Dispositional hearing means the court hearing at which testimony is provided regarding the needs of a child and at which the court enters a dispositional order. [Ref. § 48.335 and 938.335, Stats.]

Dispositional order means the order of the court made at a dispositional hearing regarding services to be provided to a child or juvenile. [Ref. § 48.355 and 938.355, Stats.]

Division for Learning Support: Equity and Advocacy (DLSEA) means the division of the Wisconsin Department of Public Instruction (DPI) which is responsible for special education programs and services; student services, prevention and wellness programs; and equity programs.

Division of Children and Family Services means the subdivision of the Department of Health and Family Services responsible for, among others, the Bureau of Programs and Policies; the Bureau of Child and Family Development; the Bureau of Regulation and Licensing; the Office of Policy, Evaluation and Planning; and the Bureau of Milwaukee Child Welfare.

Division of Supportive Living means the subdivision of the Department of Health and Family Services responsible for programs involving mental health, substance abuse, developmental disability and aging and long-term support programs.

Due process hearing means a proceeding conducted under § 115.80, Stats., by a hearing officer appointed by the State of Wisconsin to resolve a dispute relating to the identification, evaluation, educational placement or the provision of a free appropriate public education to a child with a disability.

- E -

Early identification and assessment of disabilities in children means the service of implementing a formal plan for identifying a disability as early as possible in a child's life.

Educational placement means the placement of a child with a disability in the educational program set out in the child's individualized education program (IEP); the option on the continuum of alternative educational placements in which the child's IEP is to be implemented (e.g., a regular education class, a resource room, a separate class); and the school or facility selected to implement the child's IEP.

Emotional disturbance means an impairment characterized by emotional, social and behavioral functioning that significantly interferes with the child's total educational program and development including the acquisition or production, or both, of appropriate academic skills, social interactions, interpersonal relationships or intra-personal adjustment. The condition denotes intra-individual and inter-individual conflict or variant or deviant behavior or any combination thereof, exhibited in the social systems of school, home and community and may be recognized by the child or significant others.

Exceptional rate means that part of the Uniform Foster Care Rate which may be provided to a foster parent if the foster home placement will allow a child to not be placed in a more restrictive setting or will allow a child to leave a more restrictive setting.

- F -

FERPA means the Family Educational Rights and Privacy Act, a federal law governing public school maintenance of student records.

Foster child means, generally, a child placed for care and maintenance in an out-of-home care placement by the Department of Health and Family Services, a county agency, a child welfare agency or a court.

Foster home means any facility operated by a person required to be licensed by § 48.62(1)(a), Stats., in which care and maintenance are provided to no more than four children unless all of the children are siblings or up to six children if that will allow the placement of a sibling group. [Ref. § 48.02(6), 48.62 and 938.02(6), Stats., and § HFS 56.02(12), Adm. Code]

Foster parent means a person with primary responsibility for the care and supervision of one or more foster children placed in his/her home. [Ref. § HFS 56.02(13), Adm. Code]

Free Appropriate Public Education (FAPE) means special education and related services that:

- are provided at public expense, under public supervision and direction, and without charge;
- meet the standards of the Department of Public Instruction and the Individuals with Disabilities Education Act (IDEA);
- include preschool, elementary school, or secondary school education in the state; and
- are provided in conformity with an IEP that meets the requirements of the IDEA.

- G -

Group home means any facility operated by a person required to be licensed by the DHFS under § 48.625, Stats., for the care and maintenance of five to eight children. [Ref. § 48.02(7), 48.625 and 938.02(7), Stats., and Ch. HFS 57, Adm. Code]

Guardian means the person named by the court having the duty and authority of guardianship. [Ref. § 48.02(8) and 938.02(8), Stats.]

Guardianship means the duty and authority to make important decisions in matters having a permanent effect on the life and development of a child and the duty to be concerned about a child's general welfare including consent to marriage; enlistment in the armed forces; major medical, psychiatric and surgical treatment; and obtaining a driver's license. [Ref. § 48.023 and Ch. 880, Stats.]

Guardian ad litem means an attorney who represents a child in certain proceedings and who is an advocate for the best interests of the child. The guardian ad litem differs from an attorney in that the guardian ad litem is not bound by the wishes of his/her client. [Ref. § 48.235 and 938.235, Stats.]

- H -

Health check means the medical screening funded by Title XIX of the Social Security Act and which is the program through which foster children are screened for health needs. Foster children are categorically eligible for Title XIX for the payment of health services.

Hearing handicap means an auditory handicap is determined by medical (otologic) and audiologic evaluations. Examination is done by a physician specializing in diseases of the ear and evaluation by a certified clinical audiologist. The loss of hearing acuity affects the normal development of language and is a medically irreversible condition for which all medical interventions have been attempted. The hearing loss affects a child in varying degrees, depending on the time the loss was sustained.

Hearing officer means a person appointed by the State of Wisconsin to conduct a due process hearing under § 115.80, Stats.

HFS 37 means the administrative rule promulgated by the DHFS for mandating what information must be provided to foster parents, treatment foster parents and family-operated group home parents.

HFS 38 means the administrative rule promulgated by the DHFS for the licensing of treatment foster homes.

HFS 43 means a proposed administrative rule being developed by the DHFS for the process for appealing a substantiated finding of child abuse or neglect.

HFS 44 means the administrative rule promulgated by the DHFS for administering and controlling the practice and determination of reasonable efforts and permanency planning.

HFS 52 means the administrative rule promulgated by the DHFS for residential treatment centers for children and youth (previously known as “child caring institutions” and CCIs).

HFS 54 means the administrative rule promulgated by the DHFS for licensing child-placing agencies.

HFS 56 means the administrative rule promulgated by the DHFS for licensing foster homes for children.

HFS 57 means the administrative rule promulgated by the DHFS for licensing group homes for children.

HFS 58 means the administrative rule promulgated by the DHFS for administration of the Kinship Care Program.

- I -

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child with a disability.

Independent living services mean a series of services designed to assist children in out-of-home care in making a successful transition from that care to independent living, generally when they age out of care, and to assist individuals aged 18-21 who have left care in making a successful transition to independent living.

Individualized Education Program (IEP) means a written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with the law. The document establishes the educational program required for the child.

Individualized Education Program Team (IEP Team) means a team appointed by a local educational agency to evaluate a child with a known or suspected disability, to develop an individualized education program (IEP) for a child with a disability, and to determine the child’s educational placement.

IEP Team evaluation means a procedure used by an IEP team in accordance with the law to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Individuals with Disabilities Education Act (IDEA) means the federal special education law. The act is codified at 20 United States Code Chapter 33. The implementing regulations are found at 34 Code of Federal Regulations (CFR) Part 300.

- J -

Juvenile, for the purposes of the juvenile justice system, means person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, “juvenile” does not include a person who has attained 17 years of age. [Ref. § 938.02(10m), Stats.]

Juvenile justice code means Chapter 938 of the Wisconsin statutes, which sets forth the procedures and policies for the operation of the juvenile justice system.

Juvenile in need of protection or services or JIPS means a juvenile who has been found to be in need of protection and services under § 938.13, Stats., and which includes such youth as habitual truants and habitual runaways, uncontrollable children and children under age 10 who have committed a delinquent act. For the most part, these children have been known in the past as “status offenders” [i.e., children and youth in violation of laws that apply only to juveniles (e.g., truancy, curfew violations, running away)].

- K -

Kinship Care means a program under which a specified relative other than a parent may receive a monthly payment to take care of a minor child. The primary eligibility criteria are that there is a need for the placement, that the placement is in the child’s best interest and that the child currently or might in the future come under the jurisdiction of the court as a child or juvenile in need of protection or services. There is no financial eligibility requirement for the program.

Kinship care relative means a relative of a child, as defined in § 48.57(3m)(a), Stats., with whom a child is living.

- L -

Learning disability means an impairment that denotes severe and unique learning problems due to a disorder existing within the child which significantly interferes with the ability to acquire, organize or express information. These problems are manifested in school functioning in an impaired ability to read, write, spell or arithmetically reason or calculate.

Least restrictive environment (LRE) requirement means a provision of the special education law requiring that to the maximum extent appropriate, children with disabilities must be educated with children who are non-disabled. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment may occur only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Legal custodian means a person, other than a parent or guardian, or agency to whom legal custody of a child has been transferred by a court but does not include a person who has only physical custody of a child. [Ref. § 48.02(11) and 938.02(11), Stats.]

Legal custody means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline a child, and to provide food, shelter, legal services, education and ordinary medical and dental care for a child, subject to the rights, duties and responsibilities of the guardian of the child and subject to any existing parental rights and responsibilities and the provisions of any court order. [Ref. § 48.02(12) and 938.02(12), Stats.]

License means a document authorizing an agency or individual to operate a facility or program for which the license is given.

Licensing agency means the DHFS, a county agency or a child welfare agency licensed by the DHFS to license foster homes.

Local Education Agency (LEA) means:

- the school district in which a child with a disability resides; or

- the Department of Health and Family Services if the child with a disability resides in an institution or facility operated by that department; or
- the Department of Corrections if the child resides in a Type 1 secured correctional facility, as defined in § 938.02(19), Stats., or a Type 1 prison, as defined in § 301.01(5), Stats.

- M -

Medical services means services provided by a licensed physician. Medical services must be paid by the school district only if they are necessary to determine a child's medically related disability that results in the child's need for special education and related services.

Mental retardation (mentally retarded) means the term used in the federal special education law, the Individuals with Disabilities Education Act (IDEA), for cognitive disability. [See the definition of "cognitive disability."]

Multiple disabilities means concomitant impairments, such as cognitive disability and orthopedic impairment, that cause such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

- N -

Non-custodial parent means a birth or adoptive parent who has not been granted legal custody of his/her child and whose parental rights are not otherwise terminated. [Ref. § 48.02(12) and § 767.001(1) and (6), Stats.]

- O -

Occupational Therapy (OT) means services provided by a qualified occupational therapist to a child with a disability to improve, develop, or restore functions lost or impaired through illness, injury, or deprivation, including improving the ability to perform tasks for independent functioning. OT also includes preventing, through early intervention, initial or further impairment or loss of function.

Office for Civil Rights (OCR) means the office within the U.S. Department of Education responsible for implementing and enforcing the civil rights of citizens in schools. Such rights are granted under the United States Constitution and federal statutes, including section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).

Office of Special Education Programs (OSEP) means the office within the U.S. Department of Education responsible for the implementation of the Individuals with Disabilities Education Act (IDEA), which guarantees each child with a disability a free appropriate public education (FAPE), including the provision of needed special education and related services.

Orientation and mobility services means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community.

Orthopedic Impairment (OI) means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes but is not limited to impairments caused by congenital anomaly, such as a club foot or absence of a member; impairments caused by disease, such as poliomyelitis or bone

tuberculosis; and impairment from other causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.

Other Health Impairment (OHI) means limited strength, vitality or alertness, due to chronic or acute health problems. The term includes but is not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or acquired injuries to the brain caused by internal occurrences or degenerative conditions that adversely affect a child's educational performance.

Out-of-home care means a foster home, a treatment foster home, a group home or residential treatment center for children or youth.

-P -

Parent means either a birth parent or an adoptive parent whose adoption of a child has been finalized. [Ref. § 48.02(13) and 938.02(13), Stats.]

Parent, for the purposes of special education law, means any of the following:

1. a biological parent;
2. a husband who has consented to the artificial insemination of his wife under § 891.40;
3. a male who is presumed to be the child's father under § 891.41;
4. a male who has been adjudicated the child's father under subch. VIII of ch. 48, under § 767.45 to 767.51, by final order of judgement of an Indian tribal court of competent jurisdiction or by final order of judgement of a court of competent jurisdiction in another state;
5. an adoptive parent;
6. a legal guardian;
7. a person acting as a parent of a child;
8. a person appointed as a sustaining parent under § 48.428; or a person assigned as a surrogate parent under § 115.792(1)(a)2.
9. a foster parent, if the right and the responsibility of all of the persons specified in 1. to 5. to make educational decisions concerning a child have been extinguished by termination of parental rights, by transfer of guardianship or legal custody or by other court order, and if the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the educational decisions that are required of a parent under this subchapter and has no interests that would conflict with the interests of the child.

"Parent" does not include:

- any person whose parental rights have been terminated;
- the state or county or a child welfare agency if a child was made a ward of the state or a county or a child welfare agency under ch. 880 or if a child has been placed in the legal custody or guardianship of the state or a county or a child welfare agency under ch. 48 or ch. 767;
- an American Indian tribal agency if the child was made a ward of the agency or placed in the legal custody or guardianship of the agency.

Parent counseling and training means the process of assisting parents in understanding the special needs of their child, providing parents with information about child development, and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP.

Parental rights means all of those rights endowed upon the parent whose parental rights are not terminated.

Permanency plan means a plan designed to ensure that a child is reunified with his/her family whenever possible, or that the child quickly attains a placement or home providing long term stability. [Ref. § 48.38(1)(b) and 938.38(1)(b), Stats.]

Person acting as the parent of a child means a relative of the child or a private individual allowed to act as a parent of a child by the child's biological or adoptive parents or guardian, and includes the child's grandparent, neighbor, friend or private individual caring for the child with the explicit or tacit approval of the child's biological or adoptive parents or guardian. "Person acting as the parent of a child" does not include any person that receives public funds to care for the child if such funds exceed the cost of such care. The term includes a foster parent if the local educational agency determines that:

- the right of the parent to make educational decisions concerning the child has been extinguished by termination of parental rights, by transfer of guardianship or legal custody or by other court order;
- the foster parent has an ongoing, long-term parental relationship with the child;
- the foster parent is willing to make educational decisions required of parents under special education law; and
- the foster parent has no interests that would conflict with the interests of the child.

Physical custody means actual custody of a child. [Ref. § 48.02(14) and 938.02(14), Stats.]

Physical Therapy (PT) means a service provided by a qualified physical therapist to prevent or minimize a disability, develop and improve sensory and motor function, control postural deviations, and establish and maintain maximum performance within the disabled child's individual capabilities. PT is directed toward enabling students to participate and progress in special education and in the general curriculum by minimizing the effect of the physical disability.

Psychological services means services that include:

- administering psychological and educational tests, and other assessment procedures;
- interpreting assessment results;
- obtaining, integrating and interpreting information about child behavior and conditions relating to learning;
- consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations;
- planning and managing a program of psychological services, including psychological counseling for children and parents; and
- assisting in developing positive behavioral intervention strategies.

Public agency means the DHFS or a County Department of Social Services or Human Services.

- R -

Recreation means an assessment of leisure function, therapeutic recreation services, and leisure education.

Re-evaluation means an IEP Team evaluation conducted after the child's initial (pre-placement) IEP Team evaluation. A child with a disability must be re-evaluated by an IEP team at least once every three years and if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation.

Rehabilitation counseling means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term includes vocational rehabilitation services provided to a student with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973.

Related services means transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education, including:

- speech-language pathology and audiology services;
- psychological services;
- physical and occupational therapy;
- recreation, including therapeutic recreation;
- early identification and assessment of disabilities in children;
- counseling services, including rehabilitation counseling;
- orientation and mobility services;
- medical services for diagnostic or evaluation purposes;
- school health services;
- social work in schools; and
- parent counseling and training.

Relative means a person so identified for specific purposes in § 48.02(15), 48.57(3m)(a), 49.19(l)(a)2.a. and 938.02.(15), Stats.

Residential care center for children and youth means a child welfare agency licensed by the DHFS pursuant to § 48.60, Stats., and regulated by Ch. HFS 52, Adm. Code, to provide care and maintenance for four or more children. These facilities are often referred to as "CCIs" or "residential treatment centers." [Ref. § 48.60(l), Stats.]

Respite care means the temporary and short-term care of a foster child while the child's foster parents are obtaining rest or relief.

- S -

Section 504 of the Rehabilitation Act of 1973 means a federal statute prohibiting discrimination based on disability. It is enforced by the Office for Civil Rights of the U.S. Department of Education.

School health services means services provided by a qualified school nurse or other qualified person to a child with a disability.

School social work services in schools means services for children with disabilities, including:

- preparing a social or developmental history;
- group and individual counseling with the child and family;
- working in partnership with parents and others on those problems in a child's living situation (home, school and community) that affect the child's adjustment in school;

- mobilizing school and community resources to enable the child to learn as effectively as possible in his/her educational program; and
- assisting in developing positive behavioral intervention strategies.

Shelter care facility means a nonsecure place of temporary care and physical custody for children. Shelter care facilities are generally licensed as a shelter care facility under § 48.66, Stats., and Ch. HFS 59, Adm. Code, or as a foster or group home. [Ref. § 48.02(17) and 938.02(17), Stats.]

Significant developmental delay means a characteristic of children, ages 3, 4 and 5 years of age or below compulsory school attendance age, who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional or adaptive development. All other suspected handicapping conditions (cognitive disability, orthopedic impairment, visually handicapped, hearing handicapped, learning disability, speech and language handicapped, emotional disturbance, autism, traumatic brain injury, other health impairment) must be considered before identifying a child's primary handicapping condition as significant developmental delay.

Special education means specially designed instruction in the classroom, the home, or in other settings (including instruction in physical education, speech language pathology services, travel training, and vocational education) at no cost to the parents consistent with state standards, to meet the unique needs of a child with a disability.

Special education referral means a written statement requesting an evaluation for special education submitted to the board by any person who has reasonable cause to believe that a child is a child with a disability.

Speech and language handicap means an impairment characterized by a delay or deviance in acquiring pre-linguistic, or receptive or expressive skills or both of oral communication. The handicap does not include speech and language problems resulting from differences in paucity of or isolation from appropriate models. Elective or selective mutism or school phobia is not included except in cooperation with programming for the emotionally disturbed. Documentation of a physical disability resulting in a voice problem, e.g., nodules, cleft palate, etc., or an expressive motor problem, e.g., cerebral palsy, dysarthria, etc., does not require the determination of a handicapping condition in speech and language.

Speech-language pathology services means those services including:

- identification of children with speech and language impairments;
- diagnosis and appraisal of specific speech or language impairments;
- referral for medical or other professional attention necessary for the habilitation of speech or language impairments; and
- counseling and guidance of parents, children, and teachers regarding speech and language impairments.

Status offense means a type of jurisdiction under "juvenile in need of protection or services" and includes runaways, truants, children who are uncontrollable, and children under the age of 10 who have committed a delinquent act. [Ref. § 938.13(4), (6), (6m), (7), and (12), Stats.]

Substitute care means "out-of-home care."

Supervising agency means the agency responsible for overseeing the care and maintenance of a child placed in out-of-home care. [Ref. § HFS 56.02(24), Adm. Code.]

Supplemental rate means that part of the Uniform Foster Care Rate that is made in recognition of the special needs of a foster child. [Ref. § 48.62(4), Stats., and § HSS 56.09(2), Adm. Code]

Surrogate parent means a person appointed by a school district, i.e., local education agency, to act as the parent of a child with a disability in all matters relating to the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE) to the child.

- T -

Termination of parental rights means that, pursuant to a court order, all rights, powers, privileges, immunities, duties and obligations existing between parent and child are permanently severed. [Ref. § 48.40(2), Stats.]

Title IV-E means that section of the federal Social Security Act that provides funding for and places regulations on a state's out-of-home care system.

Transportation, for a child with a disability, means travel to and from school and between schools; travel in and around school buildings; and specialized equipment, such as special or adapted buses, lifts, and ramps, if required to benefit from special education.

Traumatic Brain Injury (TBI) means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as:

- cognition;
- speech and language;
- memory;
- attention;
- reasoning;
- abstract thinking;
- communication;
- judgment;
- problem-solving;
- sensory, perceptual and motor abilities;
- psychosocial behavior;
- physical functions;
- information processing;
- executive functions, such as organizing, evaluating and carrying out goal-directed activities.

The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

Treatment foster care means that type of foster care which is intensive, individualized and goal-oriented, and which utilizes specially selected and trained foster parents, which is designed to prevent institutionalization, and which is designed for children who have severe physical, mental, medical, alcohol or other drug abuse, cognitive, intellectual, behavioral, developmental or similar problems. [Ref. Ch. HFS 38, Adm. Code]

Treatment plan means the plan for the child which details the treatment and services to be provided to the child and his/her family, and includes the identity of the persons responsible for providing those services, the behavioral and measurable goals and objectives to be met, and the anticipated termination date or other appropriate disposition.

- U -

Uniform foster care rate means the system of reimbursement and funding for foster parents, and includes the basic maintenance rate, the supplemental rate and the exceptional rate. [Ref. § 48.64(2), Stats., and Ch. HFS 56]

- V -

Visually Handicapped or Visually Impaired (VI) means a visual deficiency that, even with correction, adversely affects a student's educational performance. A visual handicap is determined by functional visual efficiency including visual fields, ocular motility, binocular vision and accommodation. A visual handicap is determined by medical examination, e.g., by an ophthalmologist or optometrist. Also included are diagnosed physical disabilities or handicapping conditions which may result in a visual handicap or affect visual functioning in the future.

Voluntary placement means the placement of a child in a foster home which is accomplished by voluntary consent of a child's parent, the child (if age 12 or older) the foster parent and a placing agency and which may not exceed six months. [Ref. § 48.63(1), Stats.]

Note: Educational glossary from the EEN Triangle of Support, A Guide for Parents.

Note: Definitions for autism and traumatic brain injury are from the Code of Federal Register. These definitions may be revised to reflect the definitions as proposed in Ch. PI 11, Wis. Admin. Code, in future editions.

X. Resources

Addressing the Behavioral Needs of Students with Disabilities. Information Update Bulletin 00.01, May 2000, Wisconsin Department of Public Instruction. www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html

Children with Disabilities Enrolled by Their Parents in Private Schools. Information Update Bulletin 98.01, January 1998, Wisconsin Department of Public Instruction.
www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html

Answers to Frequently Asked Questions About Compulsory School Attendance, Suspension, Expulsion, Dropouts, Educating Incarcerated Youth and Contracting with Technical Colleges. May 2000, Wisconsin Department of Public Instruction. www.dpi.state.wi.us/dpi/dlsea/sspw/index/html

Legal Requirements Relating to Disciplining Children with Disabilities. Information Update Bulletin 00.02, May 2000, Wisconsin Department of Public Instruction.
www.dpi.state.wi.us/dpi/dlsea/een/bulindex.html

Special Education Disciplinary Action Advisor. May 2000, Wisconsin Department of Public Instruction.
www.dpi.state.wi.us/dpi/dlsea/een/index.html (click on "Disciplinary Action Advisor").

Chapter PI 11, Rules Implementing Subchapter V of Chapter 115, Wisconsin Statutes. Copies of this special education law are available by contacting the Department of Public Instruction, Special Education Team at (608) 266-1781.

"Introduction to Special Education: A Guide for Parents." This handbook explains special education processes and procedures and the role and rights the parent has during the process of identification, evaluation, and placement of children with disabilities.

"Parent and Child Rights in Special Education." This brochure provides parents with an understanding of their rights and role in the special education process.

**The following publications are available from the Department of Health and Family Services,
Division of Children and Family Services.**

"Are You An Everyday Hero?" This brochure answers the 15 most asked questions about foster care and is designed primarily for individuals thinking about becoming foster parents. Publication PCS-2040.

"Child Foster Care." This brochure provides basic information on foster care and is designed primarily for individuals thinking about becoming foster parents. Publication PCS-488.

"Easy Reference to Foster Care." This 41-page booklet describes the role of the foster parent, the foster child, the biological family, and the social services agency in the foster care system. Publication PCS-395.

"The Foster and Family-Operated Group Home Insurance Program." This brochure describes the liability insurance program available to foster parents whose foster child causes damages or loss to the foster family. Publication PCS-2010.

"HSS 56: Foster Home Care for Children." This is the administrative rule for licensing foster homes in the State of Wisconsin. Publication PCS-131.

"Understanding the Uniform Foster Care Rate." This brochure explains the basic maintenance, supplemental and exceptional foster care rates, the initial clothing allowance, and the process for determining payment amounts. Publication PCS-142.

These publications are available at no cost. Should you be interested in ordering any of them, please submit a written request to: Publications Unit, DHFS/DCFS, P.O. Box 8916, Madison, Wisconsin 53708-8916. Your request must include the publication number and title of the materials you are requesting. Please be sure to include the quantity of each publication you are ordering. Your request should include your name, address and phone number. Should you have any questions regarding these publications, please call the Publications Unit at (608) 266-8001.

DHFS LICENSING OFFICES

Should you have questions or concerns regarding a private agency that provides foster care, please contact the Licensing Chief in the appropriate DCFS region:

Diane Bloecker, Southern Region, 3601 Memorial Drive, Madison, Wisconsin 53704, (608) 243-2391. Counties served: Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Juneau, Lafayette, Richland, Rock, Sauk.

Beth Furay, Western Region, 610 Gibson Street, Suite 2, Eau Claire, Wisconsin 54701, (715) 836-4278. Counties served: Barron, Buffalo, Burnett, Clark, Chippewa, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, Washburn.

Julie Strong, Northern Region, 1853 North Stevens, P.O. Box 697, Rhinelander, Wisconsin 54501, (715) 365-2508. Counties served: Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, Wood.

Jill Chase, Northeastern Region, 200 North Jefferson Street, Green Bay, Wisconsin 54301, (920) 448-5316. Counties served: Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, Winnebago.

Judy Hermann, Southeastern Region, 141 NW Barstow, Waukesha, Wisconsin 53188, (262) 521-5085. Counties served: Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, Waukesha.

DHFS AREA ADMINISTRATION

Should you have questions or concerns regarding a County Department of Social or Human Services, please contact the Area Administrator in the appropriate DHFS region:

Julie Kudick, Southern Region, 3601 Memorial Drive, Madison, Wisconsin, 53704, (608) 243-2419. Counties served: Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Juneau, Lafayette, Richland, Rock, and Sauk.

Audrey Roecker, Western Region, 610 Gibson Street, Suite 2, Eau Claire, Wisconsin, 54701-3687, (608) 836-5713. Counties served: Barron, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, and Washburn.

Patrick Cork, Northern Region, P.O. Box 697, Rhinelander, Wisconsin, 54501, (715) 365-2523. Counties served: Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, and Wood.

Doug Klimek, Northeastern Region, 200 North Jefferson Street, Suite 411, Green Bay, Wisconsin, 54301, (920) 448-5318. Counties served: Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago.

Cheryl Marek Domrose, Southeastern Region, 141 NW Barstow Street, Waukesha, Wisconsin, 53188, (262) 521-5113. Counties served: Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha.

Assignment of a Surrogate Parent

CHILD'S NAME	DATE OF BIRTH	SCHOOL	GRADE

I have determined that the child named above requires the assignment of a surrogate parent under 34 CFR 300.515 because- **(Check one.)**

☐ **No parent can be identified.** "Parent" means either:

1. a biological parent;
2. a husband who has consented to the artificial insemination of his wife under § 891.40;
3. a male who is presumed to be the child's father under § 891.41;
4. a male who has been adjudicated the child's father under subch. VIII of ch. 48, under ss. 767.45 to 767.51, by final order or judgement of an Indian tribal court of competent jurisdiction or by final order or judgement of a court of competent jurisdiction in another state;
5. an adoptive parent;
6. a legal guardian;
7. a person acting as a parent of a child;
8. a person appointed as a sustaining parent under § 48.428; or a person assigned as a surrogate parent under § 115.792(1)(a)2.
9. a foster parent, if the right and the responsibility of all of the persons specified in 1. to 5. to make educational decisions concerning a child have been extinguished by termination of parental rights, by transfer of guardianship or legal custody or by other court order, and if the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the educational decisions that are required of a parent under this subchapter and has no interests that would conflict with the interests of the child.

"Parent" does not include:

- any person whose parental rights have been terminated;
- the state or county or a child welfare agency if a child was made a ward of the state or a county or child welfare agency under ch. 880 or if a child has been placed in the legal custody or guardianship of the state or a county or a child welfare agency under ch. 48 or ch. 767;
- an American Indian tribal agency if the child was made a ward of the agency or placed in the legal custody or guardianship of the agency.

☐ **The local educational agency has identified a parent; however, after reasonable efforts, the agency cannot discover the whereabouts of the parent.** (Describe efforts to discover the whereabouts of the child's parent.)

I appoint the individual named below as a surrogate parent to protect the rights of the above-named child under subch. V, ch. 115, Stats., and the Individuals with Disabilities Education Act. The surrogate parent-

- is not an employee of the Wisconsin Department of Public Instruction, the local educational agency, or any other agency that is involved in the education or care of the child.
- has no interest that conflicts with the interests of the child he/she will represent.
- has knowledge and skills that ensure adequate representation of the child.

(Note: A foster parent may be assigned as a surrogate parent if all of these requirements are met.)

Name of Surrogate Parent	Address
Telephone Number	

The surrogate parent may represent the child in all matters relating to the child's identification, evaluation, educational placement and the district's provision of free appropriate public education to the child.

Local Educational Agency Official	Title	Date

Authorization for Foster Parent to Act as a Parent

Child's Name	Date of Birth	School	Grade

I have determined that the authority of the parents to make educational decisions for the child named above has been extinguished by court order or by death. *(Provide details below, including the court that issued the order and the date of the order.)*

I have determined that the child's foster parent named below is authorized to act as the parent of the child in all matters relating to the child's identification, evaluation, educational placement, and the provision of free appropriate public education to the child under subch. V., ch. 115, Wis. Stats. The foster parent-

- HAS AN ONGOING, LONG-TERM PARENTAL RELATIONSHIP WITH THE CHILD;
- IS WILLING TO MAKE EDUCATIONAL DECISIONS REQUIRED OF PARENTS ON BEHALF OF THE CHILD; AND
- HAS NO INTEREST THAT WOULD CONFLICT WITH THE INTERESTS OF THE CHILD.

Name of Foster Parent:	Telephone number:
Address	

Local Educational Agency Official	Title	Date